

ration of 4 legislative days, the Committee on Rules to report to the House a resolution providing for a "modified closed rule" on the bill H.R. 5463. The rule I will be requesting would provide in effect that after an extensive period of general debate not to exceed 4 hours, on the bill, further consideration of the bill for amendment would be postponed to a time certain to give Members an opportunity to draft and to insert in the Record any amendments which they proposed to offer to the bill. Those amendments, if offered, would not be subject to amendment, on the floor, and article V of the bill, the "Privilege" article, would not be subject to amendment. Such a rule would I believe, best permit the House of Representatives to work its will on this important and complicated piece of legislation.

Parliamentarian's Note: Addendum 17 to the Rules of the Democratic Caucus read as follows in the 93d Congress, first session:

17. (a) It shall be the policy of the Democratic Caucus that no committee chairman or designee shall seek, and the Democratic Members of the Rules Committee shall not support, any rule or order prohibiting any germane amendment to any bill reported from committee until four (4) legislative days have elapsed following notice in the *Congressional Record* of an intention to do so. (b) If, within the four (4) legislative days following said notice in the *Congressional Record*, 50 or more Democratic Members give written notice to the chairman of the committee seeking the rule and to the chairman of the Rules Committee that they wish

to offer a particular germane amendment, the chairman or designee shall not seek and the Democratic Members of the Rules Committee shall not support, any rule or order relating to the bill or resolution involved until the Democratic Caucus has met and decided whether the proposed amendment should be allowed to be considered in the House. (c) If 50 or more Democratic Members give notice as provided in subsection (b) above, then, notwithstanding the provisions of Caucus Rule No. 3, the Caucus shall meet for such purpose within three (3) legislative days following a request for such a Caucus to the Speaker and the chairman of the Democratic Caucus by said committee chairman or designee. (d) Provided, further, that notices referred to above also shall be submitted to the Speaker, the Majority Leader, and the chairman of the Democratic Caucus.

§ 23. Waiving and Permitting Points of Order

The Committee on Rules, pursuant to its jurisdiction over the rules and order of business, may report resolutions providing that during the consideration of a measure or measures, it shall be in order to proceed in a certain way notwithstanding the provisions of a House rule or rules which would otherwise prohibit proceeding in such manner.⁽⁷⁾

7. A special order reported from the Committee on Rules may waive all

Thus a point of order does not lie against a report from the Committee on Rules on the ground that it changes or violates the rules of the House by waiving the provisions of certain rules.⁽⁸⁾ Provisions which the Committee on Rules may not by resolution waive are those relating to the right to offer a motion to recommit, and the requirement of a two-thirds vote to dispense with (Calendar Wednesday, both cited in Rule XI clause 23.⁽⁹⁾)

The reader is advised to consult other relevant sections of this chapter for the applicability of special orders waiving points of order to specific subject.⁽¹⁰⁾

rules or designated rules for a certain purpose. A motion to suspend the rules and pass a bill, however, suspends all rules in conflict with the motion (see §9, *supra*). A unanimous-consent request may also be used to suspend rules in conflict with the request.

8. See §5 23.1–23.3, 23.48, *infra*.
9. *House Rules and Manual* §729 (1973) [now Rule XI clause 4(b), *House Rules and Manual* §729(a) (1979)].
10. See in particular §21, *supra*, for resolutions making in order and waiving points of order against designated amendments and §27, *infra*, for resolutions waiving various points of order in relation to Senate bills and amendments and conference reports.

Resolutions waiving points of order are strictly construed and points of order are deemed waived only to the extent of the specific language of the rule. Thus, a resolution waiving points of order against the text of a bill does not protect nongermane amendments offered from the floor.⁽¹¹⁾ Where a designated amendment is made in order and protected by a special order, parts of that amendment are not protected if offered as independent amendments.⁽¹²⁾ And a resolution waiving points of order against specific amendments, such as committee amendments, does not extend to other amendments offered from the floor, although a floor amendment may be offered to a nongermane amendment protected by resolution, if germane to such amendment and otherwise in order under the rules of the House.⁽¹³⁾

The Committee on Rules may recommend waiving points of order against bills or resolutions where defects in committee reports thereon would otherwise

For special orders affecting the motion to recommit, see §26, *infra*. The House may by unanimous consent dispense with Calendar Wednesday. See §4, *supra*.

11. See §23.5, *infra*.
12. See §23.20, *infra*.
13. See §§23.23, 23.24, 23.43–23.47, *infra*.

prevent consideration if a point of order were raised. It is presently the practice to specifically waive such points of order by reference to a specific rule and clause thereof.⁽¹⁴⁾ Or a resolution may, by providing that notwithstanding any rule of the House to the contrary it shall be in order to move that the House resolve itself into the Committee of the Whole for the consideration of a bill, waive all possible reporting defects which would prevent the consideration of the bill.⁽¹⁵⁾ Where a resolution provides for the consideration of a bill not yet reported from committee, points of order do not lie that there is no committee report and that committee reporting requirements under the rules have not been met.⁽¹⁶⁾

Resolutions waiving points of order are often used in considering general appropriation bills, which under Rule XXI clause 2⁽¹⁷⁾ are subject to points of order if

containing unauthorized appropriations or legislation. In recent years the Committee on Rules has recommended specific waivers of points of order rather than complete waivers against appropriation bills.⁽¹⁸⁾ A resolution waiving points of order against an appropriation bill or amendment thereto may waive all points of order, may waive points of order under Rule XXI clause 5⁽¹⁹⁾ (reappropriations in a general appropriation bill), may waive points of order under Rule XXI clause 2 only with respect to legislation in the bill or only with respect to unauthorized appropriations in the bill, or may restrict the waiver to certain language in the bill for any of the foregoing reasons.

A resolution which only waives points of order against the bill or a specific amendment does not protect amendments offered from the floor, which must be germane and may not add additional legislation or unauthorized appropriations to those contained in the bill, or amendment thereto, protected by a special order.⁽²⁰⁾

Where a portion of an appropriation bill or an amendment

14. See §§ 23.6, 23.13, *infra*.

15. See §§ 23.7–23.12, *infra*. In an early ruling, no longer valid, the Speaker held that a resolution simply making it in order to resolve into the Committee of the Whole for consideration of a bill, but not waiving points of order, cured defects in reporting of the bill. See § 23.11, *infra*.

16. See, for example, § 20.8, *supra*.

17. *House Rules and Manual* § 834 (1979).

18. See § 23.26, *infra*.

19. *House Rules and Manual* § 847 (1973). [Rule XXI clause 6, *House Rules and Manual* § 847 (1979).]

20. See §§ 23.30, 23.31, 23.43–23.47, *infra*.

thereto is protected by a special order during its consideration in the House, the waiver carries over to identical provisions in the conference report on the bill, since under Rule XX clause 2, House conferees are only proscribed from agreeing to provisions in a Senate amendment which would have been subject to a point of order if originally raised in the House.⁽¹⁾

Cross References

As to appropriation bills and points of order, see Chs. 25, 26, *infra*.

As to amendments and the germaneness rule, see Ch. 28, *infra*.

As to points of order generally, see Ch. 31, *infra*.

As to suspension of rules as waiving all rules, see § 9, *supra*.

As to the authority of the Committee on Rules to recommend changing or waiving the rules of the House, see § 16, *supra*.

As to committee procedure and reports and points of order against consideration of bills improperly reported, see § 17, *supra*.

As to making in order and waiving points of order against designated amendments, see § 21, *supra*.

As to waiving points of order against the motion to recommit, see § 26, *infra*.

As to waiving points of order against conference reports and motions on amendments in disagreement, see § 27, *infra*.

1. See § 23.37, *infra*.

Authority to Waive Points of Order

§ 23.1 Rules of the House may be changed by a majority vote by the adoption of a resolution from the Committee on Rules providing for such a change, such as waiving points of order in the consideration of a bill.

On June 14, 1930,⁽²⁾ Mr. Bertrand H. Snell, of New York, called up, by direction of the Committee on Rules House Resolution 253, providing for the consideration of two conference reports on the same bill together as one, for the purposes of debate and voting. Speaker Nicholas Longworth, of Ohio, overruled a point of order against the resolution, where the point of order was based on the fact that the resolution waived all points of order in the consideration of the reports:

MR. [JOHN J.] O'CONNOR [of New York]: Mr. Speaker, I desire to make a point of order against the resolution.

THE SPEAKER: The gentleman will state it.

MR. O'CONNOR of New York: The resolution provides that "in the consideration of the reports all points of order shall be waived." Points of order are based on the rules of the House, either the few published rules or the

2. 72 CONG. REC. 10694, 71st Cong. 2d Sess.

precedents and rulings by presiding officers. This resolution proposes to do in effect what should be done by a motion to suspend the rules. The difficulty is, however, that to suspend the rules a two-thirds vote is required. This is not a resolution brought in for the purpose of obtaining by a majority vote the direct repeal of all of the rules of the House but is intended to serve a certain specific purpose in reference to only one measure of the House. For instance, the rule relating to Calendar Wednesday requires that to set that aside there must be a two-thirds vote. The rule prohibiting legislation on an appropriation bill could not be set aside, in my opinion, by this method, and that applies to other rules of the House. Points of order being rules of the House, in my opinion this resolution violates the rules of the House, in that it sets aside all rules relating to points of order.

MR. SNELL: Mr. Speaker, I should be very glad to argue the point of order with the gentleman if I knew what his point of order is, but from anything my friend has said so far, I am unable to identify it.

THE SPEAKER: The Chair will state it is not necessary. This is a very ordinary proceeding. It has been done hundreds of times to the knowledge of the Chair. The Chair overrules the point of order.

On Oct. 27, 1971,⁽³⁾ the House had under consideration House Resolution 661, reported from the Committee on Rules and providing for consideration of H.R.

3. 117 CONG. REC. 37768, 92d Cong. 1st Sess.

7248, to amend and extend the Higher Education Act and for other purposes. The resolution waived points of order against the committee amendment in the nature of a substitute for failure to comply with Rule XVI clause 7 (germaneness) and Rule XXI clause 4 (Rule XXI clause 5 in the 1979 *House Rules and Manual*, appropriations in a legislative bill) and also provided that points of order could be raised against portions of the bill whose subject matter was properly within another committee's jurisdiction rather than within the jurisdiction of the Committee on Education and Labor, which had reported the bill. (Under normal procedure, a point of order based on committee jurisdiction cannot be raised after a committee to which has been referred a bill has reported it, the proper remedy being a motion to correct reference under Rule XXII clause 4.)

In response to a parliamentary inquiry, Speaker Carl Albert, of Oklahoma, indicated that a majority vote, and not a two-thirds vote, would be required to adopt the resolution:

MR. [SPARK M.] MATSUNAGA [of Hawaii]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state the parliamentary inquiry.

MR. MATSUNAGA: Mr. Speaker, at this point is it proper for the Speaker

to determine whether a two-thirds vote would be required for the passage of this resolution, House Resolution 661, or merely a majority?

THE SPEAKER: The resolution from the Committee on Rules makes in order the consideration of the bill (H.R. 7248) and a majority vote is required for that purpose.

MR. MATSUNAGA: Even with the reference to the last section, Mr. Speaker, relating to the raising of a point of order on a bill which is properly reported out by a committee to which the bill was referred, which would in effect contravene an existing rule of the House?

THE SPEAKER: The Committee on Rules proposes to make in order in its resolution (H. Res. 661) the opportunity to raise points of order against the bill on committee jurisdictional grounds, but as is the case with any resolution reported by the Committee on Rules making a bill a special order of business, only a majority vote is required.

MR. MATSUNAGA: I thank the Speaker.

§ 23.2 It is for the House, and not the Chair, to decide upon the efficacy of adopting a special rule which has the effect of setting aside the standing rules of the House insofar as they impede the consideration of a particular bill; it is not within the province of the Chair to rule out, on a point of order, a resolution reported by the Committee on Rules which is

properly before the House and which provides for a special order of business (abrogating the provisions of Rule XX clause 1).

On Nov. 28, 1967,⁽⁴⁾ the previous question had been moved on House Resolution 985, called up by direction of the Committee on Rules, providing for concurring in a Senate amendment to a House bill; the resolution was necessary in order to waive the requirement of Rule XX clause 1, that Senate amendments be considered in Committee of the Whole if, had they originated in the House, they would be subject to that procedure. Speaker John W. McCormack, of Massachusetts, overruled a point of order against the resolution:

MR. [PAUL C.] JONES of Missouri: Mr. Speaker, I make a point of order against a vote on this resolution, and I make the point of order based entirely on rule XX, which says that any amendment of the Senate to any House bill shall be subject to a point of order that it shall first be considered in the Committee of the Whole House on the State of the Union. If it originated in the House it would be subject to that point of order. I believe there is no question about it being subject to a point of order should it originate here in this House. Until that issue is de-

4. 113 CONG. REC. 34038, 34039, 90th Cong. 1st Sess.

bated in the Committee of the Whole House on the state of the Union I believe that we are violating rule XX of the House rules.

THE SPEAKER: The Chair will state that the Chair has previously ruled on the point of order raised by the gentleman, and the matter is one that is now before the House for the consideration of the House, and the will of the House.

For the reasons heretofore stated and now stated, the Chair overrules the point of order.

MR. JONES of Missouri: Respectfully, Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. JONES of Missouri: Mr. Speaker, can the Chair tell me under what authority the House can consider this in the House rather than in the Committee of the Whole House on the State of the Union, in view of rule XX which says it shall first be considered in the Committee of the Whole House on the State of the Union?

THE SPEAKER: The Chair will state that the House can change its rules at any time upon a resolution that is properly before the House reported by the Committee on Rules. The present resolution has been put before the House by the Committee on Rules within the authority of the Committee on Rules, therefore the matter presents itself for the will of the House.

MR. JONES of Missouri: Mr. Speaker a further parliamentary inquiry.

The reason I am making this is that I want to get some record on this for this reason: The Chair has said that the Committee on Rules may make a resolution which has not been adopted

by the House which summarily amends the Rules of the House which the Members of the House are supposed to rely upon. This rule has not been adopted as yet.

THE SPEAKER: The Chair will state that the Committee on Rules has reported the rule under consideration—

MR. JONES of Missouri: But it has never been voted upon.

THE SPEAKER: The Chair will state that we are about to approach that matter now.

MR. JONES of Missouri: And I am challenging that, and the point of order is made that we cannot vote on that because it says in rule XX that this first shall be considered in the Committee of the Whole House on the State of the Union.

THE SPEAKER: The Chair cannot be any more specific or clear in responding to the point of order or in answering the gentleman's parliamentary inquiry.

The matter is properly before the House and it is a matter on which the House may express its will.

The Speaker had previously, when the resolution was called up, overruled the same point of order: ⁽⁵⁾

The Chair is prepared to rule. The Chair has given serious consideration to the point of order raised by the gentleman from Missouri. The Committee on Rules has reported out a special rule. It is within the authority of the rules, and a reporting out by the Rules Committee is consistent with the rules of the House. Therefore, the Chair overrules the point of order.

5. *Id.* at pp. 34032. 34033.

§ 23.3 It is the duty of the Chair to determine whether language in a pending bill conforms to the rules of the House, but where the House has adopted a resolution waiving points of order against provisions in violation of the standing rules, the Chair will not construe the constitutional validity of those provisions.

On May 10, 1973,⁽⁶⁾ the Committee of the Whole was considering for amendment the bill H.R. 7447, making supplemental appropriations, where the House had previously adopted House Resolution 389 waiving points of order against unauthorized appropriations, legislation, and reappropriations of unexpended balances in the bill. Mr. Sidney R. Yates, of Illinois, made a point of order against language contained in the bill, appropriating moneys for the Department of Defense, on the grounds that such appropriation violated constitutional principles:

MR. YATES: Mr. Chairman. I make a point of order against the language set forth in lines 10, 11, and 12, on page 6.

Article I, section 8, of the Constitution of the United States says:

The Congress shall have the power to declare war.

6. 119 CONG. REC. 15290, 15291, 93d Cong. 1st Sess.

A Congress has not declared war against Cambodia or Laos or against any other country in Southeast Asia for that matter. Congress has not given the President any authority to use the American Armed Forces in Cambodia and Laos. Nevertheless, on order of President Nixon, American military planes are bombing in both those countries. The appropriation contained in the transfer authority includes funds to continue the bombing of Cambodia and Laos. . . .

Now, my argument, Mr. Chairman, will not relate to an interpretation by the Chair of the Constitution. I want to make that clear at this point.

Rule XXI, paragraph 2, of the Rules of the House says:

No appropriation shall be reported in any general appropriation bill for any expenditure not previously authorized by law.

Mr. Chairman, under that rule it is not enough that there be ordinary legislative authority which is required for other appropriations. It is not enough that there be ordinary legislative authority upon which to base an appropriation for American Armed Forces to engage in war.

There must be constitutional authority for that appropriation as well, namely, there must be congressional approval for American forces to engage in a war. Both authorizations are essential for that kind of appropriation.

Mr. Chairman, I am contending that there are two forms of legislative authorization that are essential for military appropriations which are to be used to carry on a war. as the bombing is in Cambodia and Laos. One is the ordinary legislative authorization, and

the other, which is necessary, also, is a following of the constitutional mandate as well.

It will be argued, Mr. Chairman, what difference does that make? Points of order have been waived by rule approved by the House and granted by the Committee on Rules. That argument might be appropriate with respect [to] the need for ordinary legislation which would authorize the use of that transfer of authority, but, as I pointed out, we have two forms of legislation. While that waiver of points of order might apply to ordinary legislation, it cannot apply to a waiver of the constitutional provisions, because the Committee on Rules cannot waive any constitutional provisions. The provisions of the Constitution cannot be waived by the Committee on Rules, because to hold otherwise would be to authorize any unconstitutional action by the House. This House cannot pass any rule of procedure that would vitiate or violate any provision of the Constitution. . . .

I am asking the Chair for its ruling on two points. One, I ask the Chair to rule with respect to military appropriations which provide funds for American Armed Forces to engage in war under rule XXI, section 2, of the Rules of Procedure of the House of Representatives, which states there must be, as well as any other legislation authorizing such action, compliance with article I, section 8, of the U.S. Constitution, which requires the approval of the Congress for American Armed Forces to engage in that war; and, secondly, I am asking the Chair to rule that the requirements in article XI, section 8, cannot be waived by any rule of the Committee on Rules.

Mr. Chairman, with your ruling, if favorable, the language authorizing the transfer authority should be stricken.

After further argument, Chairman Jack B. Brooks, of Texas, ruled as follows:

The Chair is ready to rule.

The Chair has read the resolution, and the resolution adopted by the House under which this legislation is being considered says that—

All points of order against said bill for failure to comply with the provisions of clause 2 and clause 5 of rule XXI are hereby waived.

Under clause 2, which the Chair has read, the pending paragraph would be subject to a point of order, as legislation, were it not for this rule.

The Chair is not in a position, nor is it proper for the Chair to rule on the constitutionality of the language, or on the constitutionality or other effect of the action of the House in adopting the resolution of the Committee on Rules. In the headnotes in the precedents of the House it very clearly states that it is not the duty of a chairman to construe the Constitution as it may affect proposed legislation, or to interpret the legality or effect of language; and the Chair therefore overrules the point of order raised by the gentleman from Illinois (Mr. Yates).

Waiving All Points of Order Against Bill or Against Its Consideration

§ 23.4 Form of resolution providing “that notwithstanding the provisions of any other

rule of the House” it shall be in order to resolve into the Committee of the Whole for consideration of a joint resolution.

The following resolution was under consideration on July 1, 1946:⁽⁷⁾

Resolved, That notwithstanding the provisions of any other rule of the House immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of the joint resolution (H.J. Res. 371, extending the effective period of the Emergency Price Control Act of 1942), as amended, and the Stabilization Act of 1942, as amended, and all points of order against said joint resolution are hereby waived. That after general debate, which shall be confined to the joint resolution and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the joint resolution shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the joint resolution for amendment the Committee shall rise and report the same to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

7. H. Res. 689, 92 CONG. REC. 8059, 79th Cong. 2d Sess.

§ 23.5 Waiving points of order against the text of a bill (through adoption of a resolution making its consideration a special order and waiving points of order against the bill) does not vitiate the requirement in Rule XVI clause 7, that amendments from the floor must be germane.

On Aug. 22, 1963, the Committee of the Whole was considering for amendment the Foreign Assistance Act Amendments of 1963, pursuant to a special order (H. Res. 493) which made in order the consideration of said bill and waived all points of order against the bill. Chairman pro tempore Wilbur D. Mills, of Arkansas, ruled that the waiver did not extend to nongermane amendments offered from the floor.⁽⁸⁾

MR. [ROBERT J.] DOLE [of Kansas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows: . . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN [Albert M. Rains, of Alabama]: The gentleman will state the point of order.

MR. MORGAN: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the foreign aid bill.

8. 109 CONG. REC. 15608, 88th Cong. 1st Sess.

MR. DOLE: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman from Kansas will state the parliamentary inquiry.

MR. DOLE: Mr. Chairman, is it not true that all points of order have been waived on this bill?

THE CHAIRMAN: Under the rule, all points of order are waived as to the text of the bill, as reported by the committee. Points of order are not waived as to amendments that might be offered to the bill. . . .

THE CHAIRMAN PRO TEMPORE: The Chair is prepared to rule.

The gentleman from Kansas [Mr. Dole] offers an amendment to the bill which the Chair has had an opportunity to read and analyze. The gentleman from Pennsylvania [Mr. Morgan] makes the point of order against the amendment on the ground that it is not germane to the bill before the Committee. The Chair is of the opinion that the amendment is not germane to the bill.

The point of order is sustained.

Waiving Defects in Reporting of Bill

§ 23.6 Form of resolution waiving points of order against a bill on the grounds of noncompliance with the Ramseyer rule (Rule XIII clause 3).

The following resolution was under consideration on Apr. 15, 1970: ⁽⁹⁾

9. H. Res. 916, 116 CONG. REC. 11863, 91st Cong. 2d Sess.

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16311) to authorize a family assistance plan providing basic benefits to low-income families with children, to provide incentives for employment and training to improve the capacity for employment of members of such families, to achieve greater uniformity of treatment of recipients under the Federal-State public assistance programs and to otherwise improve such programs, and for other purposes, and any point of order against said bill pursuant to clause 3, Rule XIII, is hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed six hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment. No amendment shall be in order to said bill except amendments offered by direction of the Committee on Ways and Means, and said amendments shall be in order, any rule of the House to the contrary notwithstanding. Amendments offered by direction of the Committee on Ways and Means may be offered to any section of the bill at the conclusion of the general debate, but said amendments shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to

final passage without intervening motion except one motion to recommit.

§ 23.7 Despite certain defects in the consideration or reporting of a bill by a standing committee, such defects may be remedied by a special rule from the Committee on Rules

On May 2, 1939,⁽¹⁰⁾ Mr. Samuel Dickstein, of New York, made a point of order against an order of business resolution reported by the Committee on Rules and called up for consideration (H. Res. 175), on the ground that the bill made in order by the resolution had been referred to, considered by, and reported from a committee (the Committee on the Judiciary) which had no jurisdiction over the subject matter involved (the special rule made in order a motion to resolve into the Committee of the Whole to consider the bill but waived no points of order). After extended argument on the point of order, Speaker William B. Bankhead, of Alabama, overruled the point of order on the ground that after a public bill has been reported it is not in order to raise a question of committee jurisdiction. The Speaker further commented that even if

there were defects in the committee consideration and report, the rule from the Committee on Rules would have the effect of remedying such defects:

MR. [CARL E.] MAPES [of Michigan]: Mr. Speaker, in order to protect the rights of the Committee on Rules, will the Chair permit this observation? The gentleman from New York slept on his rights further until the Committee on Rules reported a rule making the consideration of this measure in order. Even though the reference had been erroneous and the point of order had been otherwise made in time, the Committee on Rules has the right to change the rules and report a rule making the legislation in order. This point also might be taken into consideration by the Speaker, if necessary.

THE SPEAKER: The Chair is of the opinion that the statement made by the gentleman from Michigan, although not necessary to a decision of the instant question, is sustained by a particular and special decision rendered by Mr. Speaker Garner on a similar question. The decision may be found in the Record of February 28, 1933. In that decision it is held, in effect, that despite certain defects in the consideration or the reporting of a bill by a standing committee, such defects may be remedied by a special rule from the Committee on Rules making in order a motion to consider such bill. The Chair thinks that that decision by Mr. Speaker Garner clearly sustains the contention made by the gentleman from Michigan.⁽¹¹⁾

10. 84 CONG. REC. 5052-55, 76th Cong. 1st Sess.

11. For the Feb. 28, 1933, decision referred to by the Chair, see §23.11, *infra*.

On July 23, 1942,⁽¹²⁾ Mr. John E. Rankin, of Mississippi, made a point of order against a bill “not legally before the House,” on the grounds that the committee of jurisdiction, the Committee on Election of President, Vice President, and Representatives in Congress, had never reported the bill with a quorum present. Speaker Sam Rayburn, of Texas, responded as follows:

The Chair is ready to rule.

At this time there is no bill pending before the House. A resolution reported by the Committee on Rules will be presented to the House, which, if adopted, will make in order the consideration of H.R. 7416. If the Committee on Election of President, Vice President, and Representatives in Congress had never taken any action upon this bill and the Committee on Rules had decided to report a rule making it in order and putting it up to the House whether or not the House would consider the bill, they would have been within their rights. Therefore, the Chair cannot do otherwise than hold that there is nothing at the time before the House. It is anticipated that a special rule will be presented, making in order the consideration of H.R. 7416. If the House adopts the rule then the House has decided that it desires to consider the bill at this time, and the Chair therefore overrules the point of order of the gentleman from Mississippi [Mr. Rankin] and recognizes the gentleman from Illinois [Mr. Sabath].

12. 88 CONG. REC. 6541, 6542, 77th Cong. 21 Sess.

Parliamentarian's Note: It is the present practice to specifically waive points of order against consideration of bills because of defects in committee reports. For example, the failure of a committee to comply with the “Ramseyer” rule (Rule XIII clause 3) may be raised after the House agrees to a resolution making the consideration of the bill in order and before the House resolves itself into the Committee of the Whole to consider the bill, where the resolution does not waive that point, or all points of order.

§ 23.8 The Chair indicated in response to a parliamentary inquiry that if a pending “closed” rule providing for the consideration of the bill were rejected, the bill would not be called up since the committee report did not comply with the “Ramseyer” rule and could be considered only if the rule, waiving points of order, were adopted.

On May 21, 1970, there was pending before the House a “closed” rule (H. Res. 1022) providing for and waiving points of order against the consideration of a bill reported from the Committee on Ways and Means, amending the Social Security Act.

Speaker John W. McCormack, of Massachusetts, answered parliamentary inquiries on the effect of rejection of the resolution: ⁽¹³⁾

MR. [PHILLIP] BURTON of California: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state the parliamentary inquiry.

MR. BURTON of California: Mr. Speaker, as I understand the situation, if the rule is rejected, then that would leave us an effective opportunity to restore the current Federal matching to the States for certain nursing home care after 90 days; is that correct, Mr. Speaker?

THE SPEAKER: The Chair understands the gentleman's question, but the Chair must state that that is not a parliamentary inquiry.

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. BOLLING: As the manager of the rule, would I be correct in stating that the parliamentary situation would be that if this rule were defeated, the bill made in order by the rule, namely, the increase in social security, could not come up?

THE SPEAKER: The Chair will state that that is a matter of procedure and a question for the gentleman from Arkansas [Chairman of the Committee on Ways and Means].

MR. BOLLING: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. BOLLING: If the rule making in order the bill which is provided for by the rule were defeated, the bill would not be in order?

THE SPEAKER: The Chair will state, without passing upon the question at this point as to whether or not this would be a privileged bill, that if the rule should be rejected the bill would not come up at this time.

MR. [JOHN W.] BYRNES of Wisconsin: Mr. Speaker, will you permit me to comment on the fact that the report on this bill did not comply with the Ramseyer rule, so an objection could be made to bringing up the legislation unless there is a rule waiving that point of order.

MR. [WILBUR D.] MILLS [of Arkansas]: That is exactly the point of the gentleman from Missouri.

§ 23.9 Where the House adopts a resolution providing that it shall be in order, any rule of the House to the contrary notwithstanding, to move that the House resolve itself into Committee of the Whole for the consideration of a bill, such action waives the requirement of compliance with the Ramseyer rule (Rule XIII clause 3).

On Feb. 15, 1949, the House adopted a special order from the Committee on Rules providing for and waiving points of order against the consideration of an appropriation bill: ⁽¹⁴⁾

13. 116 CONG. REC. 16554, 16555, 91st Cong. 2d Sess.

14. H. Res. 99, 95 CONG. REC. 1214-18, 81st Cong. 1st Sess.

Resolved, That notwithstanding any rule of the House to the contrary, it shall be in order on Tuesday, February 15, 1949, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 2632) making appropriations to supply urgent deficiencies for the fiscal year 1949, and for other purposes, and all points of order against the bill or any of the provisions contained therein are hereby waived. That after general debate which shall be confined to the bill and continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Speaker Sam Rayburn, of Texas, then overruled a point of order against the consideration of the bill:⁽¹⁵⁾

MR. [FRANCIS H.] CASE of South Dakota: Mr. Speaker, I make the point of order that the report accompanying the bill, H.R. 2632, does not comply with the so-called Ramseyer rule.

I call the attention of the Chair to the fact that although the resolution which has been adopted waives points

of order against the bill by the provisions contained therein it does not specifically waive or exempt the so-called Ramseyer rule which requires that a report accompanying a bill, including appropriation bills, shall set forth in appropriate type the text of the statute it is proposed to repeal.

In this connection I invite the Chair's attention to the fact that on page 8 of the proposed bill, line 6, it is proposed to repeal a title in a previous act of Congress, and again on page 16, lines 15 and 16, the bill carries this language: "and the first, fourth, and fifth provisos under said head are hereby repealed."

I have diligently searched the entire report on the bill and can find no citation of the statute to be repealed in order to comply with the Ramseyer rule.

I make the point of order which, if sustained, as I understand it, would automatically recommit the bill to the committee.

THE SPEAKER: The Chair will read the rule:

Notwithstanding any rule of the House to the contrary, it shall be in order—

And so forth—

and all points of order against the bill or any of the provisions contained therein are hereby waived.

The Chair overrules the point of order.

MR. CASE of South Dakota: Mr. Speaker, will the Chair indulge me for a moment?

THE SPEAKER: The Chair will indulge the gentleman.

MR. CASE of South Dakota: Under the rule in the House Manual, a cita-

15. *Id.* at pp. 1218, 1219.

tion is made to a precedent in the *Congressional Record* of the Seventy-first Congress, second session, page 10595. This citation reads:

Special orders providing for consideration of bills, unless making specific exemption, do not preclude the point of order that reports on such bills fail to indicate proposed changes in existing law. (Cannon's, sec. 9220a; 71st Cong., 2d sees., *Congressional Record*, p. 10595.)

I fail to see any provision in the rule adopted which specifically exempt clause 2a of rule XIII, the Ramseyer rule.

THE SPEAKER: The Ramseyer rule is a rule of the House, and this resolution states "all rules to the contrary notwithstanding," it shall be in order to consider the bill.

The Chair overrules the point of order.

§ 23.10 Where a special rule provides that "upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R.—" (an open rule), the provisions of such rule do not prohibit the raising of a point of order under the Ramseyer rule.

On June 12, 1930, the House adopted a special order from the Committee on Rules (H. Res. 243) providing that "upon the adoption of this resolution it shall be in

order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 12549." During debate on the resolution, Speaker pro tempore John Q. Tilson, of Connecticut, answered a parliamentary inquiry on the proper time to raise a point of order against consideration of the bill on the grounds that the report thereon did not comply with the provisions of Rule XIII clause 2, the Ramseyer rule:⁽¹⁶⁾

MR. [T. JEEF] BUSBY [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: Does the gentleman from Indiana yield for that purpose?

MR. [FRED S.] PURNELL [of Indiana]: For a parliamentary inquiry; yes.

MR. BUSBY: Mr. Speaker, the rule we are about to consider deals with a legislative bill which was reported by the Committee on Patents. The report of the committee does not comply with the provisions of the Ramseyer rule. What I want to ask the Chair is this: At what point in the proceedings it would be proper for me to make a point of order against the consideration of this legislation because the report does not comply with the Ramseyer rule? Should it come before the rule is adopted?

16. 72 CONG. REC. 10593–96, 71st Cong. 2d Sess.

The Ramseyer rule was subsequently renumbered to become Rule XIII clause 3, *House Rules and Manual* § 745 (1979).

THE SPEAKER PRO TEMPORE: The present impression of the Chair is that such a point of order would be in order when the motion is made to go into the Committee of the Whole under the rule.

MR. BUSBY: Then the rule does not automatically carry us into the Committee of the Whole?

THE SPEAKER PRO TEMPORE: It does not. It makes it in order to move to go into the Committee of the Whole.

MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, it occurs to me that there might be another interpretation given the rule than that indicated by the Speaker in his last statement. This resolution makes it in order to move that the House consider this particular piece of legislation, H.R. 12549. If this particular piece of legislation is improperly on the calendar, a motion to strike it from the calendar is in order at any time; but when the Rules Committee by a special rule—which rule makes it possible to consider the bill—provides that it shall be in order to move to consider that bill, H.R. 12549, it seems to me that whether the bill—was correctly reported or not has nothing to do with the matter. The Rules Committee may report a rule providing for consideration of a bill which has not even been reported. The report has no place in the picture. The rule makes in order the consideration of H.R. 12549, and not the report.

THE SPEAKER PRO TEMPORE: It seems to the Chair that the Rules Committee has it entirely within its own power. If the Rules Committee by this rule, or by an amendment to this rule, should make it in order, regardless of paragraph 2(a) of Rule XIII, it

would be in order; but as the rule now reads it occurs to the Chair that it does not go far enough to mark it in order in contravention of the general rules of the House.

Following the adoption of the resolution, Mr. Albert H. Vestal, of Indiana, moved that the House resolve itself into the Committee of the Whole for the consideration of the bill, and the Speaker pro tempore sustained a point of order (raised by Mr. Busby) against the consideration of the bill: ⁽¹⁷⁾

THE SPEAKER PRO TEMPORE: The Chair is ready to rule.

Paragraph 2a of Rule XIII reads:

Whenever a committee reports a bill or a joint resolution repealing or amending any statute or part thereof, it shall include in its report or in accompanying document—

(1) The text of the statute or part thereof which is proposed to be repealed; and

(2) A comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended, showing by stricken-through type and italics, parallel columns, or other appropriate typographical devices the omissions and insertions proposed to be made.

Section 64 of the bill provides:

The provisions of this act apply to existing copyrights save as expressly indicated by this Act. All other acts or parts of acts relating to copyrights are hereby repealed, as well as all other laws or parts of laws in conflict with the provisions of this act.

17. 72 CONG. REC. 10593–96, 71st Cong. 2d Sess.

The gentleman from Indiana argues well that it would be a task of considerable magnitude to do what is proposed here, and yet that seems to be the purpose of the rule that the Member making the report of the committee shall do the work of investigation and submit to the House the information as to what statutes are to be repealed.

On March 17, 1930, a point of order was made against a bill in very much the same situation as this bill, that it did not conform to section 2a of Rule XIII. In that case the Speaker pro tempore, who happened to be the gentleman from New York [Mr. Snell], chairman of the Rules Committee, that reports this rule, sustained the point of order. It seems to the Chair clear that the ruling then made was correct and that no other ruling can be made here than to sustain the point of order and send the bill back to the committee for a report in accordance with the rule. The Chair therefore sustains the point of order.

§ 23.11 In earlier practice, the Speaker held that defects by a committee in reporting a bill to the House (sitting without permission while the House was in session and failing to properly vote on reporting the bill) could be remedied by a special order from the Committee on Rules making in order a motion that the House resolve itself into the Committee of the Whole for the consideration of the bill but not specifically waiving points of order.

On Feb. 28, 1933, Mr. William B. Bankhead, of Alabama, called up by direction of the Committee on Rules a special order providing for the consideration of a bill:

MR. BANKHEAD: Mr. Speaker, I call up a privileged resolution from the Committee on Rules.

The Clerk read the House resolution as follows:

HOUSE RESOLUTION 397

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. 5122, "An act to provide for the purchase and sale of cotton under the supervision of the Secretary of Agriculture."

That after general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the 6-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto to final passage without intervening motion, except one motion to recommit.

Speaker John N. Garner, of Texas, overruled a point of order against the resolution and against the bill: ⁽¹⁸⁾

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, I make the point

18. 76 CONG. REC. 5247-49, 72d Cong. 2d Sess.

of order, first, that this bill, S. 5122, is not properly on the calendar.

In the first place, the committee was in session after the House had been called to order, and they had not special permission to be in session on that day, after the House was in session.

Furthermore, there was no definite vote taken in the committee reporting out the bill.

In addition, the rule itself is not in proper order, considering the fact that the bill is not properly reported and on the calendar at the present time.

If the Chair will look at Cannon's book of procedure, the Chair will find that this is a regular rule taking up and giving privilege to a bill that is properly on the House Calendar. Had the Committee on Rules desired to take this bill away from the committee and discharge the committee, it should have brought in a different form of rule than is before us at the present time.

Mr. Speaker, I make the point of order that the bill was not properly reported, because the committee was sitting at a time when it had no right to sit; and, furthermore, the bill not being on the calendar at the present time in accordance with the rules and the precedents of the House, the rule itself is not in proper order. . . .

THE SPEAKER: . . . With respect to the point that the committee has not properly reported the bill, the Chair does not think it necessary to go back of the rule to determine what is the condition of the bill. The Rules Committee undoubtedly has authority to bring in a rule providing for the consideration of a bill that has never even been referred to a committee; or if it

has been referred to the committee, not reported; or if reported, improperly reported.

As to the form of the rule, the resolution says:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. 5122, "An act to provide for the purchase and sale of cotton under the supervision of the Secretary of Agriculture."

Then the resolution goes on and lays down the conditions under which the bill shall be considered.

It occurs to the Chair that this form of resolution undoubtedly gives the House the right and the power to consider S. 5122, under the limitations laid down in the resolution. So if the House adopted the resolution, it would make in order the consideration of the bill which is the object of the rule.

The third problem is one that the Chair can not rule upon until the Chair knows the facts, and the Chair would have to make inquiry of the individual member of the Rules Committee whether or not it was properly reported. So far as appears on the face of the resolution, it has been reported by the Rules Committee, but if, indeed, and in fact, it is shown that it was not reported by the Rules Committee, then the Chair would consider that fact in reaching a decision.

MR. SNELL: Mr. Speaker, may I make a suggestion right here?

MR. BANKHEAD: Mr. Speaker, in order that we may clarify the issue now pending, does the gentleman from New York challenge the fact that the Rules Committee had a regular meet-

ing for the consideration of this resolution and reported it out in the regular way?

MR. SNELL: No, I do not; but I claim that the resolution reported here is not in the form to do what the gentleman is contending here he has the right to do. I maintain that the bill itself was not properly on the House Calendar and under the precedents prepared by Mr. Cannon himself there is shown one kind of rule for a bill on the House Calendar and another kind of rule for a bill that is not properly reported and on the House Calendar.

THE SPEAKER: The Chair does not understand that the philosophy of that rule could possibly be that the Rules Committee is limited as to the provisions of a rule that suspends all other rules of the House of Representatives. All rules to the contrary, when this resolution is adopted, if it is adopted by the House, it takes the place of all other rules of the House of Representatives inconsistent with its purpose.

MR. SNELL: The Speaker does not entirely get my point. I claim if they wanted to suspend the rules of the House and consider a bill not properly reported by the committee, they should have drafted a rule in different form from the one now before us.

THE SPEAKER: Let us see what the rule says.

MR. SNELL: I know what the rule says.

THE SPEAKER: It says:

Upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union.

For what? For the consideration of S. 5122.

MR. SNELL: I am not arguing that point with the Chair. I am simply making the point of order that the bill is not properly on the House Calendar, and when a bill is not properly on the House Calendar this rule does not apply to it.

THE SPEAKER: Suppose there was not any calendar at all?

MR. SNELL: Then you would have to draft a different kind of rule from the one you have now.

MR. [THOMAS L.] BLANTON [of Texas]: Suppose it was in Phil Campbell's hip pocket?

MR. SNELL: That does not make any difference, and has nothing to do with the point under discussion.

THE SPEAKER: The Chair overrules the point of order.

Parliamentarian's Note: For contemporary practice, see §§ 23.9, 23.10, *supra*.

§ 23.12 A point of order that a committee in reporting a bill has not complied with the provisions of Rule XIII clause 3 (the Ramseyer rule) will not lie during consideration of a special rule providing for the consideration of such bill and waiving all points of order against the bill.

On Mar. 11, 1933, there was pending before the House a resolution from the Committee on Rules, providing for the consideration of a bill and providing that "all points of order against said

bill shall be considered as waived" (H. Res. 32). Speaker Henry T. Rainey, of Illinois, ruled that under the provisions on the special order, a point of order against consideration of the bill for defects in the committee report could not be raised:⁽¹⁹⁾

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I make the point of order that the bill is not in order at this time for the reason that the report does not comply with the Ramseyer rule, with which the gentleman from Tennessee [Mr. Byrns] is entirely familiar. The bill changes existing law and the report does not set out the existing law as provided in the Ramseyer rule and therefore I make the point of order that it is not in order at this time.

MR. [JOSEPH W.] BYRNS [of Tennessee]: The point of order would be against the bill and not against the resolution.

MR. RANKIN: It is against consideration of the bill.

MR. BYRNS: That would come later.

MR. RANKIN: No; you shut me off from all points of order with the passage of this resolution.

THE SPEAKER: The point of order is overruled.

The question is on ordering the previous question.

The previous question was ordered.

THE SPEAKER: The question is on agreeing to the resolution.

MR. RANKIN: Mr. Speaker, may I be permitted to make my point of order

against the bill now or shall I make it when the bill is read? I do not want to waive my right to make the point.

THE SPEAKER: The gentleman can make the point when the bill is called up.

The resolution was agreed to.

Parliamentarian's Note: As with other waivers against defects in accompanying reports, waivers should be against consideration of a bill for failure to comply with the Ramseyer rule, rather than against the bill itself.

§ 23.13 The House rejected a resolution reported from the Committee on Rules, providing for the consideration of a bill improperly reported (failure of a quorum to order the bill reported).

On July 23, 1973,⁽²⁰⁾ the House rejected House Resolution 495, called up by Mr. Claude D. Pepper, of Florida, by direction of the Committee on Rules and providing for the consideration of H.R. 8929 (to amend title 39, on the reduced mailing rate for certain matter). The resolution specifically waived Rule XI clause 27(e) [now Rule XI clause 2(1)(2)(A) in the 1979 *House Rules and Manual*] in relation to the bill; that clause provided that a quorum must actually be present

19. 77 CONG. REC. 198. 73d Cong. 1st Sess.

20. 119 CONG. REC. 25482, 93d Cong. 1st Sess.

when a bill is ordered reported by a committee, a requirement that was not followed by the Committee on Post Office and Civil Service, in the reporting of the bill in question.

Waiving All Points of Order Against Certain Amendments

§ 23.14 Form of resolution providing for the consideration of a bill and making in order, any rule of the House to the contrary notwithstanding, a certain type of amendment.

The following resolution was under consideration on Dec. 5, 1945:⁽¹⁾

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4649) to enable the United States to further participate in the work of the United Nations Relief and Rehabilitation Administration. That after general debate, which shall be confined to the bill and continue not to exceed 1 day, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the bill shall be read for amendment under the 5-minute rule. It shall be in order to consider, any rule of the House to the contrary notwithstanding, an amend-

ment prohibiting the use of funds involved in the bill (H. R. 4649) in countries that refuse free access to examination of United Nations Relief and Rehabilitation Administration operations by representatives of the United States press and radio. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

§ 23.15 Where a special rule provided that amendments relating to a certain subject matter could be offered as substitutes for the pending bill, notwithstanding any rules of the House to the contrary, the Chairman of the Committee of the Whole explained the parliamentary situation.

On Mar. 19, 1935, the House adopted House Resolution 165, reported from the Committee on Rules and providing for the consideration of a bill for the payment of world war adjusted service certificates:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H.R. 3896, "a

1. H. Res. 444, 91 CONG. REC. 11477, 79th Cong. 1st Sess.

bill to provide for the immediate payment of World War adjusted-service certificates, to extend the time for filing applications for benefits under the World War Adjusted Compensation Act, and for other purposes"; and all points of order against said bill are hereby waived; that after general debate, which shall be confined to the bill and continue not to exceed 10 hours, to be evenly divided and controlled by the chairman and ranking minority members of the Committee on Ways and Means, the bill shall be read for amendment under the 5-minute rule. It shall be in order to consider as substitute amendments for the bill any such amendments that relate to the payment of World War adjusted-service certificates, and such substitute amendments shall be in order, any rule of the House to the contrary notwithstanding. At the conclusion of the consideration of the bill for amendment the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion, except two motions to recommit, with or without instructions: *Provided, however*, That if the instructions in such motions relate to the payment of World War adjusted-service certificates, they shall be in order, any rule of the House to the contrary notwithstanding.⁽²⁾

On Mar. 21, 1935, the bill was being considered pursuant to the special order in Committee of the

2. 79 CONG. REC. 3984, 74th Cong. 1st Sess.

Whole and all time for general debate had expired. Chairman Clarence Cannon, of Missouri, made a statement regarding the procedure under which the bill would be considered for amendment:⁽³⁾

THE CHAIRMAN: The time of the gentleman from Kentucky [Mr. Vinson] has expired. All time has expired. The Chair will briefly recapitulate the parliamentary situation.

This is an unusual rule—but a very adequate one. The Chairman of the Committee on Rules and his committee are to be congratulated on the admirable manner in which they have met a difficult situation.

Under the special order, all amendments pertaining to the payment of the adjusted-service certificates are in order, the rules of the House to the contrary notwithstanding. At a time when it is the vogue to term all special rules "gag rules", here is a special order which liberalizes instead of restricts, the rules of the House. As Chairman O'Connor well says, it is the antithesis of a gag rule.

Under the clause waiving the restrictions of the rules of the House against any proposition to pay adjusted-service certificates, it permits consideration of the Patman bill, the Cochran bill, the McReynolds bill, the Andrew bill, and similar measures which otherwise could not be considered because not germane. Accordingly, after conference with the Speaker, the Chairman of the Committee on Rules, the majority leader, and the authors of the several bills, the Chair will recognize Members who

3. *Id.* at p. 4216.

desire to offer major amendments in the following order:

The first section of the pending bill, the Vinson bill, having been read for amendment, the Chair will recognize the gentleman from Texas [Mr. Patman] to offer his bill as a substitute for the Vinson bill. While it will be offered as a substitute, it will be, technically speaking, an amendment. Then the gentleman from Missouri [Mr. Cochran] will be recognized to offer his bill as a substitute for the Patman bill in the pending amendment to the Vinson bill. If the gentleman from Tennessee [Mr. McReynolds] desires, he will then be recognized to offer his bill as an amendment to the Cochran bill or, if he prefers to await a vote on the Cochran substitute and the Cochran substitute is disposed of adversely, he may then offer his bill as a substitute for the Patman bill in the amendment to the Vinson bill. We may have pending at the same time an amendment, an amendment to the amendment, a substitute for the amendment, and an amendment to the substitute. All four forms of amendment may be pending simultaneously. That is the limit, as any further proposal would be an amendment in the third degree.

Under the rules of the House, an amendment is perfected before it is voted on. Any substitute is then perfected; and then, both the amendment and the substitute for the amendment having been perfected, the Committee takes its choice of the two. It should also be borne in mind that the Committee, having chosen one of the two, and having adopted either the amendment or the substitute for the amendment, it is then too late to offer further perfecting amendments.

If the various bills are offered in the order indicated, the Vinson bill comprises the text of the bill; the Patman bill is the amendment to the text; the Cochran bill is the substitute for the amendment to the text; and any further bill proposed is an amendment to the substitute.

The question will come first on perfecting amendments to the Patman bill; second, on perfecting amendments to the Cochran bill. The two bills having been perfected, the Committee will then vote on substituting the Cochran bill—or the Cochran bill, as amended—for the Patman bill. The question will then recur on adopting the prevailing bill as an amendment to the Vinson bill.

§ 23.16 Where a bill is being considered under the provisions of a resolution which specifies that committee amendments shall be in order “any rule of the House to the contrary notwithstanding,” the issue of germaneness cannot be raised against a committee amendment.

On Mar. 8, 1960,⁽⁴⁾ the House adopted House Resolution 468, providing for the consideration of H.R. 5 and waiving points of order against certain amendments:

. . . It shall be in order to consider without the intervention of any point of order the substitute amendment rec-

4. 106 CONG. REC. 4956, 86th Cong. 2d Sess.

ommended by the Committee on Ways and Means now in the bill and such substitute for the purpose of amendment shall be considered under the five-minute rule as an original bill. No other amendment to the bill or committee substitute shall be in order except amendments offered by direction of the Committee on Ways and Means, and said amendments shall be in order, any rule of the House to the contrary notwithstanding, but such amendments shall not be subject to amendment. . . .

While the bill was being considered on May 18, 1960,⁽⁵⁾ Chairman William H. Natcher, of Kentucky, stated in response to an inquiry that a point of order of germaneness could not be raised against such a committee amendment:

MR. [HALE] BOGGS [of Louisiana] (during the reading of the amendment): Mr. Chairman, I ask unanimous consent to dispense with the further reading of the amendment.

THE CHAIRMAN: Is there objection to the request of the gentleman from Louisiana?

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, reserving the right to object, I would like to address a parliamentary inquiry to the Chairman. Would the amendment offered by the gentleman from Louisiana be subject to a point of order?

THE CHAIRMAN: The Chair desires to inform the gentleman from Iowa that under the resolution which we are considering this bill, House Resolution

468, committee amendments shall be in order, any rule of the House to the contrary notwithstanding.

MR. GROSS: Mr. Chairman, I withdraw my reservation of objection.

THE CHAIRMAN: Is there objection to the request of the gentleman from Louisiana?

There was no objection.

§ 23.17 Where a resolution under which a bill is being considered makes in order, without the intervention of any point of order, a specified amendment, the amendment may be offered as a new title, and the amendment need not be germane to the title which it supplants or to the title which it follows.

On Feb. 10, 1964,⁽⁶⁾ the Committee of the Whole was considering H.R. 7152, the Civil Rights Act of 1963, where the special order (H. Res. 616) adopted by the House made in 1963, without the intervention of any point of order, the text of another bill, to provide an "Operation Bootstrap" for the American Indian. Chairman Eugene J. Keogh, of New York, overruled a point of order against the amendment when it was offered as a new title VIII of the bill (the bill already contained a title VIII):

MR. [EMANUEL] CELLER [of New York] (interrupting reading of the bill):

5. *Id.* at p. 10575.

6. 110 CONG. REC. 2738-40, 88th Cong. 2d Sess.

Mr. Chairman, enough has been read of the amendment to indicate that it is subject to a point of order, and I make the point of order that we have not completed the reading of the bill, therefore this is not the proper place to consider the amendment.

THE CHAIRMAN: The Chair reminds the gentleman from New York that the amendment offered by the gentleman from South Dakota has been made in order by the resolution under which this bill is being considered. The gentleman is offering the amendment at this time, and the Chair would be impelled to hold that the amendment is in order.

MR. CELLER: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. CELLER: Mr. Chairman, would it be in order to offer this amendment to title VII, or must there be a new title read?

THE CHAIRMAN: The gentleman from South Dakota is offering his amendment as a new title VIII to the bill.

Waiving Points of Order Against Nongermane Amendments

§ 23.18 Form of resolution waiving points of order against a committee amendment in the nature of a substitute on the grounds of germaneness (Rule XVI clause 7).

The following resolution was under consideration on Oct. 13, 1970:⁽⁷⁾

H. RES. 1251

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 17849) to provide financial assistance for and establishment of improved rail passenger service in the United States, to provide for the upgrading of rail roadbed and the modernization of rail passenger equipment, to encourage the development of new modes of high speed ground transportation, to authorize the prescribing of minimum standards for railroad passenger service, to amend section 13(a) of the Interstate Commerce Act, and for other purposes, and all points of order against said bill for failure to comply with the provisions of clause 3, Rule XIII are hereby waived. After general debate, which shall continue not to exceed three hours, two hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order, under clause 7, Rule XVI, the

7. 116 CONG. REC. 36592, 91st Cong. 2d Sess. See Rule XVI clause 7, *House Rules and Manual* § 794 (1979).

amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and said committee substitute shall be read by titles instead of by sections. At the conclusion of the consideration of title VIII of the amendment in the nature of a substitute for amendment, title IX of said substitute shall be considered as having been read for amendment. No amendments shall be in order to title IX of said substitute except amendments offered by direction of the Committee on Ways and Means, and said amendments shall be in order, any rule of the House to the contrary notwithstanding, but shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

§ 23.19 In ruling on the germaneness of an amendment, the Chair considers the purpose of the amendment with relation to the bill under consideration, and is not bound by the fact that the

Committee on Rules, in reporting the resolution providing for the consideration of the bill, specifically waived points of order against the consideration of a similar amendment.

On Mar. 15, 1960,⁽⁸⁾ Mr. Howard W. Smith, of Virginia, made a point of order, on the grounds of germaneness, against an amendment offered by Mr. William M. McCulloch, of Ohio, to H.R. 8601, to enforce constitutional rights and for other purposes. In argument on the point of order, Mr. Smith argued, in support of his contention that the amendment was not germane, that the Committee on Rules had reported a resolution for the consideration of the bill which resolution waived points of order against a specified amendment containing similar language (H. Res. 359). Mr. Emanuel Celler, of New York, and Mr. Charles A. Halleck, of Indiana, argued that the action of the Committee on Rules in resolving any doubts about the non-germaneness of an amendment by waiving points of order should not indicate whether the amendment was in fact germane. Chairman Francis E. Walter, of Pennsylvania, ruled as follows:

The Chair is ready to rule.

8. 106 CONG. REC. 5655-57, 86th Cong. 2d Sess.

It is quite true that the rule, House Resolution 359, under which H.R. 8601 is being considered, contains the language that the gentleman from Virginia mentioned a moment ago, concerning putting in order H.R. 10035 in order to eliminate any question of germaneness of that particular proposal.

The Chair dislikes to substitute the judgment of the Chair for that of the distinguished Committee on Rules, but, frankly, the Chair does not believe that including this language necessarily binds the present occupant of the chair.

It is quite true that the measure, H.R. 8601, deals with Federal election records, and the Chair is quite certain that the membership agrees with the Chair that the scope is rather narrow. However, the Chair feels that the amendment offered by the gentleman from Ohio has to do with the basic purpose of title 3 of the bill H.R. 8601.

The Chair overrules the point of order.

§ 23.20 Where a resolution providing for the consideration of a bill makes in order (notwithstanding the rule of germaneness) the text of a specific bill as an amendment, points of order are considered as waived only against the complete text of the proposed bill and not against portions thereof; and if parts of the text are offered as independent amendments they must meet the test of germaneness under Rule XVI clause 7.

On Dec. 10, 1969, the House had under consideration a special order called up by direction of the Committee on Rules by Mr. Ray J. Madden, of Indiana; the resolution made in order as an amendment to the bill the text of another bill, and waived points of order against the consideration of such amendment:⁽⁹⁾

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee of the Judiciary, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider, without the intervention of any point of order, the text of the bill H.R. 12695 as an amendment to the bill. At the conclusion of the consideration of H.R. 4249 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

9. H. Res. 714, 115 CONG. REC. 38123, 91st Cong. 1st Sess.

Speaker pro tempore Carl Albert, of Oklahoma, answered a parliamentary inquiry on whether portions of the bill made in order as an amendment could be offered to the bill:⁽¹⁰⁾

MR. [CLARK] MACGREGOR [of Minnesota]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. MACGREGOR: Mr. Speaker, under the resolution (H. Res. 714), if adopted, should the bill, H.R. 12695, be considered and rejected, would it then be in order, following rejection of H.R. 12695, should that occur, to offer a portion or portions of H.R. 12695 as amendments to H.R. 4249?

THE SPEAKER PRO TEMPORE: The Chair will state that would be in order subject to the rule of germaneness, if germane to the bill H.R. 4249.

MR. MACGREGOR: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. MACGREGOR: Mr. Speaker, should a portion of H.R. 12695 be offered under the conditions set forth in my previous inquiry and should it not be germane, a motion to that effect, to rule it out of order, would be then in order and be sustained, I gather?

THE SPEAKER PRO TEMPORE: That, of course, would be a matter for the Chairman of the Committee of the Whole to consider when it is before him.

MR. MACGREGOR: Mr. Speaker, I have one additional parliamentary in-

quiry. Under House Resolution 714, if adopted, would it be in order to include in the motion to recommit a portion or portions of H.R. 12695 which might otherwise be subject to a point of order on the point of germaneness?

THE SPEAKER PRO TEMPORE: The Chair would not want to pass upon that hypothetically. At the time the occasion arises the Chair would pass upon it.

§ 23.21 The issue of germaneness cannot be raised against an amendment when all points of order against it have been waived.

On Feb. 10, 1964, the Committee of the Whole was considering for amendment H.R. 7152, the Civil Rights Act of 1963, pursuant to the provisions of House Resolution 616, a special order providing for the consideration of the bill, providing that the committee amendment in the nature of a substitute thereto be read as an original bill for amendment, and providing that "it shall also be in order to consider, without the intervention of any point of order, the text of the bill H.R. 980, 88th Congress, as an amendment to the said committee substitute amendment." When title VII of the committee amendment in the nature of a substitute was pending, Mr. Ellis Y. Berry, of South Dakota, offered an amendment adding a new title VIII, con-

10. *Id.* at p. 38130.

sisting of the text of the bill H.R. 980 (which dealt with equal employment opportunity for Indians through industrial development); his amendment was related to the subject matter of neither title VII nor title VIII of the committee amendment in the nature of a substitute. Chairman Eugene J. Keogh, of New York, overruled a point of order against the consideration of the amendment, since all points of order had been waived against its consideration and it was not required to be germane to either title VII or title VIII of the committee amendment:⁽¹¹⁾

MR. [MANUEL] CELLER [of New York] (interrupting reading of the bill): Mr. Chairman, enough has been read of the amendment to indicate that it is subject to a point of order, and I make the point of order that we have not completed the reading of the bill, therefore this is not the proper place to consider the amendment.

THE CHAIRMAN: The Chair reminds the gentleman from New York that the amendment offered by the gentleman from South Dakota has been made in order by the resolution under which this bill is being considered. The gentleman is offering the amendment at this time, and the Chair would be impelled to hold that the amendment is in order.

§ 23.22 The House rejected the previous question on a reso-

11. 110 CONG. REC. 2738, 2739, 88th Cong. 2d Sess.

lution reported from the Committee on Rules making the text of a bill in order as an amendment in the nature of a substitute, and then adopted an amendment substituting another bill whose text would be in order as an amendment in the nature of a substitute. The amendment to the resolution also struck out provisions in the resolution waiving points of order against nongermane committee amendments.

On Apr. 16, 1973, Mr. Richard Bolling, of Missouri, called up by direction of the Committee on Rules the following resolution:⁽¹²⁾

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6168) to amend and extend the Economic Stabilization Act of 1970. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the five-minute rule. Immediately after the reading of the first section of H.R. 6168 under the five-minute rule, it shall be in order to consider without the intervention of

12. 119 CONG. REC. 12501, 93d Cong. Cong. 1st Sess.

any point of order the text of H. R. 6879 as an amendment in the nature of a substitute for the bill. If said amendment in the nature of a substitute is not agreed to in Committee of the Whole, it shall then be in order to consider the amendments recommended by the Committee on Banking and Currency now printed in the bill notwithstanding the provisions of clause 7, rule XVI. At the conclusion of the consideration of H.R. 6168 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 6168, the Committee on Banking and Currency shall be discharged from the further consideration of the bill S. 398, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 6168 as passed by the House.

The House rejected the previous question on the resolution and adopted an amendment offered by the ranking minority member of the Committee on Rules, Mr. David T. Martin, of Nebraska:⁽¹³⁾

MR. MARTIN of Nebraska: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Martin of Nebraska: On page 2, line 1,

strike "H.R. 6879," and insert in lieu thereof, "H.R. 2099."

On page 2, lines 2 through 7, strike the words: "If said amendment in the nature of a substitute is not agreed to in Committee of the Whole, it shall then be in order to consider the amendments recommended by the Committee on Banking and Currency now printed in the bill notwithstanding the provisions of clause 7, rule XVI."

MR. MARTIN of Nebraska: Mr. Speaker, I would like to explain this amendment to the Members. The amendment makes in order the consideration of the committee bill, H.R. 6168. Then it makes in order the offering of H.R. 2099 as a substitute. This strikes out the Stephens bill and substitutes H.R. 2099, which is a bill which was jointly introduced by the chairman of the Banking and Currency Committee and the ranking minority member, and provides for a simple 12 months' extension of the Economic Stabilization Act.

Then in addition it strikes from the original resolution (H. Res. 357) the waiving of points of order in regard to germaneness. In other words, those are stricken from the resolution. That is all this amendment does.

Mr. Speaker, I yield to the gentleman from Missouri (Mr. Bolling).

MR. BOILING: Mr. Speaker, I thank the gentleman from Nebraska for yielding, but I see no purpose in debating the matter further. I thank the gentleman again.

MR. MARTIN of Nebraska: Mr. Speaker, I urge adoption of the amendment, and I move the previous question on the amendment and on the resolution.

The previous question was ordered.

13. *Id.* at p. 12509.

THE SPEAKER:⁽¹⁴⁾ The question is on the amendment offered by the gentleman from Nebraska (Mr. Martin).

The amendment was agreed to.

THE SPEAKER: The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Parliamentarian's Note: As indicated in notes to §§18.22 and 18.30, supra, an amendment to a special order reported from the Committee on Rules, to make in order the consideration of an amendment or of another bill unrelated to the measure made in order by the special order, may not be germane.

Amending Nongermane Amendments Permitted to Remain by Special Order

§ 23.23 Where a special rule providing for consideration of a bill permits the committee reporting the bill to offer nongermane amendments, such amendments when offered are subject to amendments germane to the committee amendment.

On Sept. 3, 1940, the House was considering a special order (H. Res. 586) from the Committee on Rules providing for consideration of a bill and waiving points

of order against committee amendments as follows:

. . . It shall be in order to consider without the intervention of any point of order the substitute amendment recommended by the Committee on Military Affairs now in the bill, and such substitutes for the purpose of amendment shall be considered under the 5-minute rule as an original bill. It shall also be in order to consider without the intervention of any point of order any amendment offered by the direction of the Committee on Military Affairs to the bill or committee substitute.

Speaker pro tempore Jere Cooper, of Tennessee, answered a parliamentary inquiry on amendments which could be offered to such committee amendments:

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Speaker, the question which I am trying to have clarified is this: It has been stated by Members that the Committee on Military Affairs, as authorized to do under the language of the pending rule, will offer substitute language for what is commonly known as the Russell-Overton amendment adopted in the Senate. No Member of the House could offer a substitute, because it would not be relevant to the bill, and under the rule an amendment not relevant to the bill could not be offered by anyone except the Committee on Military Affairs. Assuming that the Committee on Military Affairs does offer such amendment, may Members of the House then offer amendments to the committee amendment or substitutes for the committee amendment which are relevant to the committee

14. Carl Albert (Okla.).

amendment but which would not be relevant to the bill without the committee amendment?

MR. [SAM] RAYBURN [of Texas]: Mr. Speaker—

THE SPEAKER PRO TEMPORE: The gentleman from Texas.

MR. RAYBURN: Mr. Speaker, the gentleman from Georgia [Mr. Tarver] and, earlier in the day, the gentleman from Mississippi [Mr. Colmer], both of whom are interested in this subject, raised the same point that the gentleman from Georgia now raises. Since that time I have consulted with the Speaker and the Parliamentarian, and I have made some investigation of the rules and precedents of the House. Under the amendment that the committee will offer in reference to this matter of drafting industry, it is my opinion, and the opinion of those with whom I have consulted, that relevant amendments to that would be in order. It is my opinion that the Chairman of the Committee of the Whole would in all probability so hold.

MR. TARVER: I thank the gentleman from Texas, but I wonder if that opinion of the gentleman from Texas may be confirmed by the Chair?

MR. RAYBURN: Mr. Speaker, of course, I cannot assure the gentleman from Georgia what the Chairman of the Committee of the Whole House on the state of the Union will do, but I think the Chairman of the Committee of the Whole House on the state of the Union will in all probability consult with the same people I have and will in all probability arrive at the same conclusion.

THE SPEAKER PRO TEMPORE: In answer to the parliamentary inquiry of

the gentleman from Georgia [Mr. Tarver] the Chair may say that while he does not feel it would be proper to undertake to make a decision now which would bind the Chairman of the Committee of the Whole House on the state of the Union when such question is presented, the present occupant of the chair is of the opinion that amendments offered by authority of the Committee on Military Affairs would be subject to germane amendments offered by Members of the House.

MR. [LYLE H.] BOREN [of Oklahoma]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. BOREN: I may put it in the form of a question. I want to know if the statement the Chair has just made would apply to an amendment which might be offered in the form of a substitute to the committee amendment?

THE SPEAKER PRO TEMPORE: A substitute is an amendment. The present occupant of the chair does not feel compelled to further amplify or to further express an opinion on these questions that may properly be raised in the Committee of the Whole and which will be passed upon by the Chairman of that Committee.⁽¹⁵⁾

§ 23.24 Where the House has adopted a resolution waiving points of order against committee amendments, no immunity is granted to Members to offer amendments to the bill which are not germane.

15. 86 CONG. REC. 11358, 11360, 76th Cong. 3d Sess.

On June 17, 1948,⁽¹⁶⁾ the Committee of the Whole was considering for amendment H.R. 6401 (the Selective Service Act of 1948) pursuant to House Resolution 671, providing for consideration of the bill and waiving points of order against committee amendments reported by the Committee on Armed Services. Mr. James W. Wadsworth, Jr., of New York, made a point of order against an amendment offered by Mr. Leon H. Gavin, of Pennsylvania, to the bill, on the grounds it was not germane to the bill (the amendment proposed acceptance of aliens for enlistment and amended the naturalization laws). Mr. Gavin argued in support of his amendment that a similar amendment had been allowed in the Senate to a similar bill. Chairman Francis H. Case, of South Dakota, ruled as follows:

The gentleman from Pennsylvania has suggested that in view of the fact a similar amendment was adopted in another body it should be permitted here. The Chair calls attention to the fact that the House of Representatives has a rule on germaneness which does not apply to a certain other body. The amendment offered by the gentleman from Pennsylvania includes a proviso which affects the naturalization laws by establishing a new basis for eligi-

bility to citizenship. A bill proposing to amend the naturalization laws would be beyond the jurisdiction of the Committee on the Armed Services. Under the rule which has been adopted no immunity was granted to Members to offer amendments which are not germane; consequently, the Chair is constrained to sustain the point of order.

The Chairman delivered a similar ruling on the same bill on the same day:⁽¹⁷⁾

The Chair is ready to rule.

The gentleman from New York [Mr. Andrews] has made the point of order that the amendment offered by the gentleman from Kansas [Mr. Rees] is not germane to the bill. Several of the Members who have spoken have called attention to other provisions in the bill. The Chair must remind the Committee that the provisions in the bill as reported by the committee were made in order by a special rule adopted by the House of Representatives. There may be provisions in the bill which would not be germane if offered as an amendment by individual Members, but are in order in the bill because they were made in order by the rule adopted by the House.

So every amendment offered must stand on its own bottom as to whether or not it is germane.

The Chair invites attention to the fact that the amendment includes such language as "It shall be unlawful to maintain certain institutions," and further on says, "Any person, corporation, partnership, or association violating any of the provisions of this subsection

16. 94 CONG. REC. 8670, 80th Cong. 2d Sess.

17. *Id.* at p. 8686.

shall be deemed guilty of a misdemeanor" and so forth. In that respect it seems to the Chair that the amendment goes beyond the provisions of the bill, imposing penalties and sanctions on persons outside the armed forces.

***Waiving Points of Order
Against Appropriation Bills
Generally***

§ 23.25 Form of resolution waiving points of order against the consideration of a general appropriation bill (where the report has not been available for three calendar days as specified in Rule XXI clause 6).

The following resolution was under consideration on Dec. 9, 1969: ⁽¹⁸⁾

Resolved, That upon the adoption of this resolution, notwithstanding any rule of the House to the contrary, it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15149) making appropriations for Foreign Assistance and related programs for the fiscal year ending June 30, 1970, and for other purposes, and all points of order against said bill are hereby waived.

18. H. Res. 742, 115 CONG. REC. 37948, 91st Cong. 1st Sess.

Rule XXI clause 6 has been re-numbered and is now Rule XXI clause 7, *House Rules and Manual* (1979).

§ 23.26 A resolution reported from the Committee on Rules waiving points of order against any provision in an appropriation bill in violation of Rule XXI clause 2, was amended to restrict the waiver to appropriations in the bill not authorized by law, where the Committee on Rules had intended to recommend a waiver of points of order against unauthorized items but not against legislative language in the bill.

On July 21, 1970, Mr. John A. Young, of Texas, of the Committee on Rules called up a resolution waiving points of order during the consideration of an appropriation bill, and indicated his intention to offer an amendment to the resolution: ⁽¹⁹⁾

MR. YOUNG: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1151 and ask for its immediate consideration.

The Clerk read the resolution as follows.

H. RES. 1151

Resolved, That during the consideration of the bill (H.R. 18515) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending

19. 116 CONG. REC. 25240, 91st Cong. 2d Sess.

June 30, 1971, and for other purposes, all points of order against said bill for failure to comply with the provisions of clause 2, rule XXI are hereby waived.

MR. YOUNG: Mr. Speaker, I yield 30 minutes to the distinguished gentleman from California (Mr. Smith), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1151 is a resolution waiving points of order against certain provisions of H.R. 18515, the Departments of Labor, Health, Education, and Welfare and related agencies appropriation bill for fiscal year 1971.

Legislative authorization for several activities, for which funds are included in H.R. 18515, expired at the end of fiscal year 1970. These are all activities currently in progress; funds for all are carried in the budget; legislation to extend them all is in the legislative process. The activities involved are listed on page 42 of the report on the bill.

Because the authorizations have not been enacted, points of order are waived against the bill for failure to comply with the first provision of clause 2, rule XXI. By mistake, the second provision was covered by the rule—so I have an amendment at the desk to correct the resolution.—

Now, Mr. Speaker, as stated there is a clerical error in the rule and at the proper time I shall send to the desk a committee amendment to correct the clerical error. . . .

Mr. Speaker, I offer a committee amendment.

The Clerk read as follows:

Amendment offered by Mr. Young: Strike out lines 5 through 7 of the

resolution and insert in lieu thereof the following: “purposes, all points of order against appropriations carried in the bill which are not yet authorized by law are hereby waived.”

The amendment was agreed to.

The House adopted the amendment offered by Mr. Young.⁽²⁰⁾

§ 23.27 On an occasion where the Committee on Rules failed to grant a rule waiving points of order against provisions in an appropriation bill, a member of the Committee on Appropriations made points of order against practically every paragraph of the bill as it was read for amendment, in order to show the House what could occur if points of order are not waived in such cases.

On July 14, 1955, the House resolved itself into the Committee of the Whole for the consideration of H.R. 7278, making supplemental appropriations (Chairman Wilbur D. Mills, of Arkansas, presiding). Mr. Louis C. Rabaut, of Michigan, a member of the Committee on Appropriations, made the following remarks in relation to the bill and its susceptibility to points of order:⁽¹⁾

MR. RABAUT: Mr. Chairman, with malice toward nobody but with deter-

20. *Id.* at p. 25241.

1. 101 CONG. REC. 10572, 10573, 84th Cong. 1st Sess.

mination to do my duty as I see it, I want to report to this House that yesterday I appeared before the Committee on Rules, as was the request of the full Committee on Appropriations. I told the Committee on Rules that this bill was filled with paragraphs that were subject to points of order; that the bill probably contained very few pages where a ruling could be denied against points of order, and the bill would be bad. I said there were so few pages that I limited it to about four pages that would not be subject to a point of order.

I read to the committee a prepared statement and said the bill contained many of the paragraphs that were in the final supplemental bill as handled by the Committee on Appropriations every year, and that a rule is usually granted.

The gentleman from New York [Mr. Taber], the gentleman from California [Mr. Phillips], and the gentleman from Wisconsin [Mr. Davis], were present and opposed a rule. Mr. Davis lent his moral support.

Past history always allowed a rule. . . .

Rather than to have a field day on points of order I intend to ask unanimous consent to ask for deletion from the bill of all the paragraphs subject to a point of order so the House may work its will on that part of the bill on which the decision of the Rules Committee permits us to function. This will represent a big saving in time and much useless talk.

Mr. Rabaut's request (to strike from the bill the portions thereof subject to points of order on the ground that they were unauthor-

ized by law or constituted legislation) was objected to. When the bill was read for amendment, Mr. Rabaut made points of order against such portions of the bill; many of the points of order were conceded by the Chairman of the Committee on Appropriations and sustained by the Chair.⁽²⁾

§ 23.28 On one occasion, the Chairman and members of the Committee on Armed Services first opposed the adoption of a rule waiving points of order against the Defense Department appropriation bill, then agreed to support the rule after the Chairman of the Committee on Appropriations announced that the appropriation bill would not be called up pending final conference action on the authorization measure.

On July 26, 1968, Mr. William M. Colmer, of Mississippi, called

2. For the proceedings wherein such points of order were made, see 101 CONG. REC. 10604-06, 10610, 10611, 10613-17, 10621, 10623-25, 84th Cong. 1st Sess.

For a statement by Mr. Clarence Cannon, of Missouri, Chairman of the Committee on Appropriations, on the necessity of resolutions from the Committee on Rules waiving points of order against appropriation bills, see 91 CONG. REC. 2671, 2672, 79th Cong. 1st Sess., Mar. 23, 1945.

up by direction of the Committee on Rules and explained the purposes of a special order waiving points of order against the provisions of H.R. 18707, making appropriations for the Department of Defense:⁽³⁾

MR. COLMER: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1273 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1273

Resolved, That during the consideration of the bill (H.R. 18707) making appropriations for the Department of Defense for the fiscal year ending June 30, 1969, and for other purposes, all points of order against said bill are hereby waived.

MR. COLMER: Mr. Speaker, I yield the usual 30 minutes to the minority, the distinguished gentleman from Ohio [Mr. Latta], and pending that, Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a rather simple resolution, but it does encompass a rather controversial matter in that it waives points of order.

Mr. Speaker, this resolution simply makes in order the consideration of the appropriation bill for the Department of Defense for fiscal year 1969. Of course, as the membership is aware, the Appropriations Committee reports and bills are privileged. They do not require ordinarily a rule to bring them to the floor. But in this case a rule was

requested and granted simply because the authorizing legislation which ordinarily precedes the reporting and consideration of an appropriation bill has not been finally enacted.

The matter is now in conference, and the Committee on Appropriations, I understand, with the concurrence of the leadership, came to the Committee on Rules and requested a rule waiving points of order.

The Chairman of the Committee on Armed Services, L. Mendel Rivers, of South Carolina, along with other members of that committee, opposed the special order under consideration:⁽⁴⁾

. . . We are now tied up in a conference with the other body. Indeed, we have already acted on two procurement sections for which this bill makes money available.

Now I do not think the great Committee on Appropriations—since the objective of adjourning at the end of August is not to be attained and since time is not of the essence—will really be saving any time. Nobody knows when we will get away from here now. We are not going to finish this month. I doubt that we will finish next month.

So, we are not going to finish this week. And we are not going to finish next week. This appropriations bill will not even be considered by the other body until sometime in September. I am hopeful that the great chairman, with whom I have never had a disagreement and with whom I have cooperated to the extent of forgoing our committee jurisdiction on

3. 114 CONG. REC. 23622, 90th Cong. 2d Sess.

4. *Id.* at p. 23623.

supplementals bills for Southeast Asia, will not insist on this bill now. It is a bad precedent. I do not want to have a misunderstanding now.

I think the sound and considerate thing to do is to consider the jurisdiction of a committee which has broken its neck to cooperate with the great Committee on Appropriations. I do not want to get into any controversy with them, but this bill could end up as the authorization for the appropriation and, as the gentleman from New York has said, the appropriation would really repeal the jurisdiction of our committee.

Mr. Rivers then withdrew his opposition to the resolution when George H. Mahon, of Texas, Chairman of the Committee on Appropriations, announced his intention to refrain from calling up the appropriation bill until the conference report on the authorizing provisions was agreed to:⁽⁵⁾

MR. MAHON: Mr. Speaker, this discussion has been altogether unanticipated. We have always worked together with the Armed Services Committee, and we have undertaken to do so in this instance. The imminent consideration of this bill has been well known to the Members of the House, and the House leadership on both sides of the aisle for many days. In view of the discussion which has taken place and in order to resolve the problem I have just conferred on the floor here with the gentleman from Mississippi [Mr. Colmer], the chairman of the Committee on Rules, and the gen-

tleman from South Carolina [Mr. Rivers], the chairman of the Armed Services Committee, and it occurs to me that our purposes might best be served if we agree to the rule and agree not to take the bill up for consideration in the House until after the conference report on the authorizing bill has passed both Houses. This would seem to be agreeable to all concerned. . . .

MR. RIVERS: Mr. Speaker, of course, there has been cooperation. This is perfectly satisfactory. All we want is the opportunity to work out our conference with the other body. Then the legislative will and the regular procedure will be accomplished. I think this will be a good solution. I do not want to do anything to any committee. I have had fine relations with both committees.

MR. MAHON: Mr. Speaker, the gentleman from South Carolina and the gentleman from Texas agree that upon the adoption of the rule, the bill will not be called up in the House by the Committee on Appropriations until the conference report on the authorization bill has been adopted by both bodies.

MR. RIVERS: Mr. Speaker, that is agreeable to me.

§ 23.29 A resolution waiving points of order against a certain provision in a general appropriation bill was considered and agreed to by the House after the general debate on the bill had been concluded and reading for amendment had begun in Committee of the Whole.

On May 21, 1969, general debate had been concluded in Com-

5. *Id.* at p. 23627.

mittee of the Whole on H.R. 11400, the supplemental appropriations bill, and the first section of the bill had been read for amendment when the Committee rose.

The House then adopted a special order from the Committee on Rules which waived points of order against one section of the bill:

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 414 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 414

Resolved, That during the consideration of the bill (H.R. 11400) making supplemental appropriations for the fiscal year ending June 30, 1969, and for other purposes, all points of order against title IV of said bill are hereby waived.

MR. COLMER: Mr. Speaker, I yield the customary 30 minutes to the minority, to the very able and distinguished gentleman from California (Mr. Smith). Pending that I yield myself such time as I may consume.

Mr. Speaker, I shall not use all the time on this resolution. This is a rather unusual situation that we find ourselves in, parliamentarily speaking. We have debated the supplemental appropriation bill at some length under the privileged status of the Appropriations Committee. Now we come in with a resolution from the Rules Committee for one purpose and one purpose alone;

that is, to waive points of order against a particular section of the bill.⁶

Waiver Against Appropriation Bill Does Not Apply to Floor Amendments

§ 23.30 Where the House had adopted a resolution providing that “during the consideration of” a general appropriation bill “the provisions of clause 2, Rule XXI are hereby waived,” the Chair relied on the legislative history to rule that the waiver extended only to provisions in the bill and not to amendments offered from the floor.

On June 22, 1973, the Committee of the Whole had under consideration H.R. 8825, making appropriations for Housing and Urban Development and independent agencies. Mr. Robert O. Tiernan, of Rhode Island, offered an amendment, to which Mr. Edward P. Boland, of Massachusetts, raised a point of order on the grounds that the amendment constituted legislation on an appropriation bill. Mr. Robert N. Giaimo, of Connecticut, argued that the point of order had no merit because the House had ear-

6. 115 CONG. REC. 13246-51, 91st Cong. 1st Sess.

lier adopted a special order waiving points of order:⁽⁷⁾

THE CHAIRMAN:⁽⁸⁾ Does the gentleman from Connecticut desire to be heard on the point of order?

MR. GIAIMO: I do, Mr. Chairman.

If the amendment offered by the gentleman from Rhode Island is not admissible, it is because of the fact that it violates these rules, rule XXI, clause 2, which prohibits legislation on an appropriation bill.

It seems to me, however, that if we read the rule of the committee, House Resolution 453, which made in order this legislation before us in this appropriation bill, the resolution which this House passed says:

H. RES. 453

Resolved, That during the consideration of the bill (H.R. 8825) making appropriations for the Department of Housing and Urban Development; for space, science, veterans, and certain other independent executive agencies, boards, commissions, and corporations for the fiscal year ending June 30, 1974, and for other purposes, the provisions of clause 2, Rule XXI are hereby waived.

That means on the face of it that the Committee on Rules waived the prohibition of the Holman rule, and rule XXI, clause 2, making in order taking up matters which otherwise would be prohibited.

Of course, it has been stated here on the floor today earlier that the reason why the committee had to go to the Committee on Rules for a waiver of

points of order was because of the fact that there was some legislation that we are appropriating for in this bill which was, in fact, not as yet authorized by law. If that is so, I suggest that the Committee on Rules should have worded their language a little differently, but they did not. They said the provisions of clause 2, rule XXI, are hereby waived. If we are going to go by the written wording of the resolution and interpret what in fact the chairman had in mind when the gentleman asked for the waiver of rule XXI, that puts many of we Members of Congress in a very difficult position because of the time that the resolution was up for adoption we would have had the right to vote down the previous question against the resolution of the Committee on Rules and try to make in order what the gentleman from Rhode Island is trying to do now. We did not do that, and one of the reasons why, undoubtedly is because Members of the Congress had the right to rely on the written wording which was before us, and the written wording clearly says that the provisions of clause 2, rule XXI are hereby waived.

I submit, Mr. Chairman, since that is the situation before us we should not go beyond the written wording of the waiver of the provisions of rule XXI, but in fact it should be instead that rule XXI is in fact waived in all its respects and in all of its aspects, and the amendments offered by the gentleman from Rhode Island (Mr. Tiernan) should be made in order.

Chairman O'Hara ruled that the legislative history of the special order clearly indicated that the waiver of points of order was

7. 119 CONG. REC. 20982, 20983, 93d Cong. 1st Sess.

8. James G. O'Hara (Mich.).

intended to apply only to provisions in the bill and not to amendments offered from the floor:⁽⁹⁾

THE CHAIRMAN: The Chair is prepared to rule.

The Chair feels that it will be necessary first to speak on the contention raised by the gentleman from Rhode Island (Mr. Tiernan) and amplified upon by the gentleman from Connecticut (Mr. Giaimo) with respect to the provisions of the resolution under which the bill is being considered, and whether or not the provisions of that resolution have an effect on the point of order made by the gentleman from Massachusetts (Mr. Boland).

The gentleman from Connecticut (Mr. Giaimo) is correct in asserting that if the amendment offered by the gentleman from Rhode Island (Mr. Tiernan) is out of order at all it is out of order because of the second sentence of clause 2 of rule XXI, which contains the provisions that "nor shall any provision in any such bill or amendment thereto changing existing law be in order," and so forth, setting forth exceptions. But the gentleman from Connecticut (Mr. Giaimo) contends, and the gentleman from Rhode Island (Mr. Tiernan) concurs, that the resolution providing for the consideration of the bill waives the provisions of that rule. The Chair has again read the rule. It says:

Resolved, That during the consideration of the bill (H.R. 8825) making appropriations for the Department of Housing and Urban Development . . . the provisions of clause 2, rule XXI are hereby waived.

It does not say that points of order are waived only with respect to matters contained in the bill. It says "During the consideration of the bill" the provisions of clause 2 of rule XXI are waived.

The Chair was troubled by that language and has examined the statements made by the members of the Committee on Rules who presented the rule to see if their statements in any way amplified or explained or limited that language. The Chair has found that both the gentleman from Louisiana (Mr. Long) and the gentleman from Ohio (Mr. Latta) in their explanations of the resolution did, indeed, indicate that it was their intention, and the intention of the committee, that the waiver should apply only to matters contained in the bill and that it was not a blanket waiver.

Therefore whatever ambiguity there may have been in the rule as reported, the Chair is going to hold, was cured by the remarks and legislative history made during the presentation of the rule, which were not disputed in any way by the gentleman from Connecticut or anyone else. However, the Chair, recognizes that it is a rather imprecise way of achieving that result and would hope that in the future such resolutions would be more precise in their application.

§ 23.31 A resolution adopted by the House waiving points of order against legislation contained in a general appropriation bill was held not to apply to amendments offered to that bill from the floor.

On May 10, 1973, Chairman Jack B. Brooks, of Texas, an-

9. 119 CONG. REC. 20983, 93d Cong. 1st Sess.

swered a parliamentary inquiry in Committee of the Whole as to the effect of a special order (H. Res. 389) which waived points of order against provisions in a general appropriations bill containing legislation and unauthorized appropriations in violation of Rule XXI clause 2:⁽¹⁰⁾

MR. [HAROLD R.] COLLIER [of Illinois]: Mr. Chairman, I have a parliamentary inquiry, and I will make a point of order, if it is in order.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. COLLIER: The parliamentary inquiry is this: Did we not waive points of order by earlier action of this House? If we did, how, then, is a point of order in order when points of order have been waived?

THE CHAIRMAN: The rule only waived points of order against provisions of the bill not against amendments offered from the floor to that legislation.

MR. COLLIER: Mr. Chairman, would not the amendment offered by the gentleman from Maryland (Mr. Long), be in and of itself under that waiver, and, therefore, any subsequent point of order on an amendment thereto would be equally out of order?

THE CHAIRMAN: Any amendment offered on the floor could be subject to a point of order. No Member raised a point of order against the amendment offered by the gentleman from Maryland (Mr. Long). A point of order was

raised against an amendment to that amendment. It was sustained. That is the situation existing at this time.

Waiving Points of Order Against Amendments to Appropriation Bill

§ 23.32 Form of resolution waiving points of order against a general appropriation bill and making in order a certain type of amendment containing legislative language.

The following resolution was under consideration on June 17, 1947:⁽¹¹⁾

Resolved, That during the consideration of the bill (H.R. 3839) making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, and offices, for the fiscal year ending June 30, 1948, and for other purposes, all points of order against the bill or any provisions contained therein are hereby waived; and it shall also be in order to consider without the intervention of any point of order any amendment to said bill prohibiting the use of the funds appropriated in such bill or any funds heretofore made available, including contract authorizations, for the purchase of any particular site or for the erection of any particular hospital.

§ 23.33 The House, by resolution, gave the Committee on

10. 119 CONG. REC. 15320, 93d Cong. 1st Sess. See Rule XXI clause 2, *House Rules and Manual* § 834 (1979).

11. H. Res. 248, 93 CONG. REC. 7166, 80th Cong. 1st Sess.

Appropriations authority to incorporate in, or offer amendments to, any general or special appropriation measure a limitation prohibiting expenditures in the pending or any other act for salary or compensation to certain persons found by them to be subversive, notwithstanding Rule XXI clause 2.

On May 17, 1943, Chairman Wright Patman, of Texas, overruled a point of order against an amendment offered by the Committee on Appropriations to the urgent deficiency appropriation bill. The Chair based his ruling on the language of a resolution from the Committee on Rules (H. Res. 105), previously passed by the House, which had authorized the Committee on Appropriations to undertake certain investigations and which had authorized the committee to include certain limitations, related to such investigations, in appropriation bills:

MR. [JOHN H.] KERR [of North Carolina]: Mr. Chairman, by direction of the Committee on Appropriations, I offer the following amendment.

The Clerk read as follows:

Amendment offered by Mr. Kerr: On page 36, after line 23, insert as a new section the following:

"Sec. 304. No part of any appropriation, allocation, or fund (1) which

is made available under or pursuant to this act, or (2) which is now, or which is hereafter made available under or pursuant to any other act, to any department, agency, or instrumentality of the United States, shall be used to pay any part of the salary, or other compensation for the personal services, of Goodwin B. Watson, William E. Dodd, Jr., and Robert Morss Lovett: *Provided*, That this section shall not operate to deprive any such person of payment for leaves of absence or salary, or of any refund or reimbursement, which have accrued prior to the date of the enactment of this act."

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state the point of order.

MR. MARCANTONIO: I make a point of order against the language in line 3 of the amendment just offered, as follows:

Which is now, or which is hereafter made, available under or pursuant to any other act, to any department, agency, or instrumentality of the United States—

And so forth. This amendment seeks to limit an appropriation in some other appropriation bill. It goes beyond this bill.

THE CHAIRMAN: Does the gentleman from Missouri desire to be heard on the point of order?

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, this amendment is made in order by House Resolution 105, authorizing the investigation, providing—as shown on page 2 of the report, House Report No. 448—as follows:

Any legislation approved by the committee as a result of this resolution may be incorporated in any gen-

eral or special appropriation measure emanating from such committee or may be offered as a committee amendment to any such measure notwithstanding the provisions of clause 2 of rule XXI.

Under that provision, the amendment is in order.

MR. MARCANTONIO: May I say in reply, Mr. Chairman, that would be true if the amendment offered were limited to this appropriation, but the amendment offered extends to appropriations not made by this bill.

THE CHAIRMAN: The language appears to be rather plain and specific to the Chair, "any legislation approved by the Committee as a result of this resolution may be incorporated in any general or special appropriation measure."

Therefore the point of order is overruled.⁽¹²⁾

Parliamentarian's Note: The full text of House Resolution 105, Feb. 9, 1943, 78th Congress, 1st Session, was as follows:

Resolved, That the Committee on Appropriations, acting through a special subcommittee thereof appointed by the chairman of such committee for the purposes of this resolution, is authorized and directed to examine into any and all allegations or charges that certain persons in the employ of the several executive departments and other executive agencies are unfit to continue in such employment by reason of their present association or membership in or with organizations whose aims or purposes are or have been subversive

to the Government of the United States. Such examination shall be pursued with the view of obtaining all available evidence bearing upon each particular case and reporting to the House the conclusions of the committee with respect to each such case in the light of the factual evidence obtained. The committee, for the purposes of this resolution, shall have the right to report at any time by bill, amendment, or otherwise, its findings and determination. Any legislation approved by the committee as a result of this resolution may be incorporated in any general or special appropriation measure emanating from such committee or may be offered as a committee amendment to any such measure notwithstanding the provisions of clause 2 of rule XXI.

For the purposes of this resolution, such committee or any subcommittee thereof is hereby authorized to sit and act during the present Congress at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses, and the production of such books or papers or documents or vouchers by subpoena or otherwise, and to take such testimony and records as it deems necessary. Subpenas may be issued over the signature of the chairman of the committee or subcommittee, or by any person designated by him, and shall be served by such person or persons as the chairman of the committee or subcommittee may designate. The chairman of the committee or subcommittee, or any member thereof, may administer oaths to witnesses.

12. 89 CONG. REC. 4558, 78th Cong. 1st Sess.

§ 23.34 Where a section in a bill pending before the Com-

mittee of the Whole was struck out on a point of order (as constituting an appropriation on a legislative bill), the Committee rose, the House took a recess, and the Committee on Rules met and reported to the House a resolution which the House adopted, making in order an amendment to such bill in Committee of the Whole to reinsert the section which had been stricken out.

On Mar. 29, 1933, the Committee of the Whole was considering S. 598 (reforestation and unemployment relief) pursuant to a unanimous consent request that the Senate bill be in order for consideration, instead of a similar House bill (H.R. 3905) which had previously been made a special order of business for that day (also by unanimous consent).

Chairman Ralph F. Lozier, of Missouri, sustained a point of order against section 4 of the Senate bill, on the grounds that it constituted an appropriation on a legislative bill in violation of Rule XI clause 4 [Rule XXI clause 5 in the *House Rules and Manual*, 1979], and section 4 was thus stricken from the bill. Immediately following the Chair's ruling, the Committee rose and a mo-

tion for a recess was adopted (at 5:42 p.m.).⁽¹³⁾

The recess having expired at 5:52 p.m., Speaker Henry T. Rainey, of Illinois, called the House to order and Mr. William B. Bankhead, of Alabama, reported and called up by direction of the Committee on Rules (which had met during the recess) a special order making in order an amendment to the Senate bill pending before the Committee of the Whole:⁽¹⁴⁾

The recess having expired (at 5 o'clock and 52 minutes p.m.), the House was called to order by the Speaker.

MR. BANKHEAD: Mr. Speaker, by direction of the Committee on Rules, I report a privileged resolution, which I send to the desk and ask for its immediate consideration.

MR. [JOSEPH B.] SHANNON [of Missouri]: Mr. Speaker, does not the rule have to lie over for a day?

THE SPEAKER: It does not.

The Clerk will report the resolution. The Clerk read as follows:

HOUSE RESOLUTION 85

Resolved, That upon the adoption of this resolution it shall be in order to offer as an amendment in Committee of the Whole House on the state of the Union to the bill S. 598 the following language:

"Sec. 4. For the purpose of carrying out the provisions of this act,

13. 77 CONG. REC. 988-990, 73d Cong. 1st Sess.

14. *Id.* at P. 990.

there is hereby authorized to be expended, under the direction of the President, out of any unobligated moneys heretofore appropriated for public works (except for projects on which actual construction has been commenced or may be commenced within 90 days, and except maintenance funds for river and harbor improvements already allocated), such sums as may be necessary; and an amount equal to the amount so expended is hereby authorized to be appropriated for the same purposes for which such moneys were originally appropriated."

All points of order against said amendment shall be considered as waived in the House and in the Committee of the Whole House on the state of the Union. . . .

THE SPEAKER: It requires a two thirds vote to consider it. The question is, Shall the House consider the resolution?

The question was taken; and on a division (demanded by Mr. Snell) there were ayes 189, noes 71.

So (two thirds having voted in favor thereof) the House determined to consider the resolution.

MR. BANKHEAD: Mr. Speaker, I move the previous question on the adoption of the resolution.

The previous question was ordered.

THE SPEAKER: The question is on agreeing to the resolution.

The resolution was agreed to.

The Committee of the Whole resumed its sitting and proceeded to consider the amendment:⁽¹⁵⁾

MR. [ROBERT] RAMSPECK [of Georgia]: Mr. Speaker, I move that the House resolve itself into the Com-

mittee of the Whole House on the state of the Union for the further consideration of the bill (S. 598) for the relief of unemployment through the performance of useful public work, and for other purposes.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 598, with Mr. Lozier in the chair. The Clerk read the title of the bill.

MR. RAMSPECK: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ramspeck: Page 3, after line 21, insert the following:

"Sec. 4. For the purpose of carrying out the provisions of this act there is hereby authorized to be expended, under the direction of the President, out of any unobligated moneys heretofore appropriated for public works (except for projects on which actual construction has been commenced or may be commenced within 90 days, and except maintenance funds for river and harbor improvements already allocated), such sums as may be necessary; and an amount equal to the amount so expended is hereby authorized to be appropriated for the same purposes for which such moneys were originally appropriated."

MR. [JOHN J.] COCHRAN of Missouri: Mr. Chairman, I offer an amendment to the amendment.

MR. RAMSPECK: Mr. Chairman, this simply puts back in the bill section 4 exactly, which was ruled out on the point of order.

I move that all debate on this section do now close.

15. *Id.*

***Waiving Points of Order
Against Unauthorized Appropriations***

§ 23.35 Form of resolution waiving points of order against unauthorized items of appropriation in a general appropriation bill (but not against legislative language).

The following resolution was under consideration on May 17, 1972:⁽¹⁶⁾

Resolved, That during the consideration of the bill (H.R. 14989) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1973, and for other purposes, the provisions of clause 2, rule XXI are hereby waived with respect to any appropriation contained in such bill.

Parliamentarian's Note: This form of resolution protects appropriations not authorized by law carried in the bill in violation of Rule XXI clause 2, but does not protect legislation in an appropriation bill, in violation of the same clause. Thus, a paragraph in the bill containing legislation as well as an unauthorized appropriation could be stricken on a point of order, and the unauthorized appropriation could not be reinserted (the special rule pro-

tecting provisions in the bill and not amendments). A special rule waiving all points of order under Rule XXI clause 2 protects both legislative language and unauthorized appropriations carried in the bill.

§ 23.36 Where an appropriation bill is considered under a rule waiving points of order against the bill, such rule does not waive points of order against amendments offered from the floor seeking to appropriate funds for purposes not authorized by law.

On June 5, 1942, the Committee of the Whole had under consideration an appropriation bill, where the House had adopted a special order from the Committee on Rules waiving points of order against unauthorized appropriations in the bill (H. Res. 499). Chairman Howard W. Smith, of Virginia, sustained a point of order against an amendment containing an unauthorized appropriation, since the special order did not waive points of order against amendments:⁽¹⁷⁾

MR. [FRANK B.] KEEFE [of Wisconsin]: Mr. Chairman, I offer an amendment.

16. H. Res. 983, 118 CONG. REC. 17760, 92d Cong. 2d Sess.

17. 78 CONG. REC. 4959, 77th Cong. 2d Sess.

The Clerk read as follows:

Amendment offered by Mr. Keefe: Page 25, after paragraph (2), insert a new paragraph, as follows: "To assist students (in such numbers as the chairman of the War Manpower Commission shall determine) participating in accelerated programs in degree-granting colleges and universities in engineering, physics, chemistry, medicine (including veterinary), dentistry, and pharmacy and such other technical and professional fields as said chairman may determine to be necessary in connection with the national war effort, by providing part-time employment, \$5,000,000."

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not authorized by law.

THE CHAIRMAN: The gentleman from New York makes a point of order against the amendment offered by the gentleman from Illinois on the ground that it is not authorized by law.

Does the gentleman from New York desire to be heard on the point of order?

MR. TABER: Merely to say, Mr. Chairman, that it is an activity for which there is no authority whatever. It adds \$5,000,000 to this bill. That is about the size of it.

THE CHAIRMAN: Does the gentleman from Wisconsin desire to be heard on the point of order?

MR. KEEFE: I do not think it is necessary for me to be heard. There is not any part of this appropriation that is authorized by law, and points of order against them were waived, under the rule.

THE CHAIRMAN: Can the gentleman point out any authority in law for this appropriation?

MR. KEEFE: The authority in law is to be found in the Executive order of the President of the United States creating the National Youth Administration, which sets up a student-aid program and which has been carried out under a student-aid program by the N. Y. A. since its inception. This simply adds \$5,000,000 to the same student-aid program, \$5,000,000 for which is already carried in this bill.

THE CHAIRMAN: The Chair is ready to rule.

In the bill under consideration, which provides an appropriation for the N. Y. A., there is no authority in law setting up the N. Y. A.; and, therefore, in order that this appropriation for that agency might not be thrown out on a point of order it was necessary to have a special rule waiving points of order against that particular appropriation. That rule waived points of order on that clause in the bill.

The gentleman's amendment undertakes to make another appropriation which is to be administered under the Chairman of the Manpower Commission. It is the opinion of the Chair that there is no authority in law for the appropriation proposed in the amendment and the Chair is therefore constrained to sustain the point of order.

On Oct. 18, 1966, Chairman James G. O'Hara, of Michigan, delivered a similar ruling:⁽¹⁸⁾

The Chair is prepared to rule.

The gentleman from Texas has stated the content of the resolution providing for the consideration of the bill

18. 112 CONG. REC. 27417, 89th Cong. 2d Sess.

before the Committee of the Whole correctly. The resolution waives points of order against the bill but it does not waive points of order against amendments to the bill.

Inasmuch as there seems to be agreement between the gentleman from Texas and the gentleman from California that the funds contained in the amendment are not authorized by legislation enacted into law, the point of order is sustained.

§ 23.37 Where a special rule in the House waives points of order against portions of an appropriation bill which are unauthorized by law, and the bill passes the House with those provisions included therein and goes to conference, the conferees may report back their agreement to those provisions (or modifications thereof, if amended by the Senate) even though they remain unauthorized, since waiver of points of order under Rule XXI clause 2, carries over to the consideration of the same or perfected provisions when the conference report is before the House.

On Dec. 20, 1969, Mr. Otto E. Passman, of Louisiana, called up conference report on H.R. 15149, making appropriations for foreign assistance. Speaker John W. McCormack, of Massachusetts,

overruled two points of order against the conference report, since the House had considered the bill originally pursuant to a special order (H. Res. 742) waiving points of order against portions of the bill making appropriations not authorized by law:⁽¹⁾

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I make a point of order against that portion of the conference report which provides funds for the purchase of planes for the Republic of China on the ground that it is an appropriation that is not authorized by law.

I read from the conference report on the authorization bill which appears in the Congressional Record of December 18 on page 39841 relating to the military assistance, section 504 of the act.

The House bill authorized a total of \$454,500,000 for military assistance of which \$350,000,000 was for worldwide allocation; \$50,000,000 for Korea; \$54,500,000 for the Republic of China.

The Senate amendment authorized a total of \$325,000,000 without any allocation to specified countries.

The managers on the part of the House agreed to the authorization of \$350,000,000 without specifying any country allocation. They found it impossible to obtain agreement to a larger total for military assistance and believe that any specific additional allocation for Korea or for the Republic of China would result in a drastic curtailment of the worldwide authorization which would be detrimental to our national security.

1. 115 CONG. REC. 40445-48, 91st Cong. 1st Sess.

So, in the basic law, in the authorization law there is no allocation specifically of funds for any country and I suggest that the appropriation of funds in a specific amount for military assistance to a particular country is without authorization of law.

THE SPEAKER: Does the gentleman from Louisiana (Mr. Passman) desire to be heard on the point of order?

MR. PASSMAN: I do, Mr. Speaker.

Mr. Speaker, first of all there is nothing in the military assistance paragraph directing the purchasing of any type of equipment. There is language appropriating a specific amount of funds for China, but there is no language anywhere in the bill stating the type of military equipment that will be provided to any nation.

Furthermore, the military assistance appropriation language is within the jurisdiction of the conference committee because the language was in the bill as it passed the House.

As a matter of fact, everything in title I is not yet authorized. . . .

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Speaker, I rise in support of the point of order and to express my strong opposition to the conference report on foreign aid appropriations.

This report contains a line item for foreign military assistance of \$404.5 million. That amount is \$54.5 million more than the amount which the House authorized yesterday by approving the conference report on the foreign aid authorization bill.

For that reason, I believe that this conference report is completely and flagrantly out of order. Let me cite to this body rule XXI, part 2, of the Rules of the House of Representatives. It states:

No appropriation shall be reported in any general appropriations bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law.

Let me also cite the interpretation which has been given to this rule, an interpretation which may be found in paragraph 835 of the rules:

In the administration of the rule it is the practice that those upholding the item of appropriation should have the burden of showing the law authorizing it.

I would be pleased to know where the House conferees find anything in the law which would authorize an additional \$54.5 million in military assistance.

Mr. Speaker, it is abundantly clear that this conference report stands in violation of the rules of this body.

Let me call to the attention of my colleagues the debate in the other body on Thursday in which the Members of that body only belatedly discovered that the Comptroller General will approve the expenditure of funds from the Treasury which have been appropriated but not authorized by the Congress without previous authorization.

Many of us in this body of the Congress have been aware of that situation for some time.

It is, nonetheless, a violation of both the spirit and the letter of the Rules of the House for the Appropriations Committee to appropriate funds which have not been authorized—just as it is a violation for authorizing committees to attempt to appropriate funds.

If the Appropriations Committee can appropriate funds in complete disregard of what has been authorized—

as it does in the conference report now before us—then why have authorizing committees?

Those of us who serve on authorizing committees might just as well stay home. The hours and days we spend in committee hearings and markup sessions are simply an exercise, when our actions can be honored, ignored, or abrogated at the whim of an Appropriations subcommittee.

Mr. Speaker, the issue before the House today goes beyond the \$54.5 million which exceeds the authorization for military assistance. It goes beyond the issue of whether the United States should be providing a down payment on jet planes for the Republic of China.

Mr. Speaker, I therefore urge that this conference report be defeated in order that the appropriation conference conform to the authority approved yesterday by the House.

MR. PASSMAN: Mr. Speaker, may I be heard further on the point of order?

Mr. Speaker, it is my understanding that the lateness of the so-called authorization bill, which does not exist in fact, as yet, and the very fact that the majority leader of the other body said there would be no authorization bill, and the chairman of the Foreign Relations Committee said there would be no authorization bill, made it necessary for us to move this bill through the Appropriations Committee, the Rules Committee, and the Rules Committee gave us a rule waiving points of order. We have moved the bill, as I understand it, according to the rules of the House, and this appropriation bill became an authorization bill also, in the absence of any authorization act.

Even at this late hour we still do not have an authorization bill because the conference report on the authorization bill was only adopted yesterday by both Houses and has not yet reached the President for his signature. . . .

MR. ZABLOCKI: Mr. Speaker, does the rule waiving points of order under which the House appropriation bill was considered by the Committee of the Whole House on the State of the Union continue through conference report consideration? Would not the rule apply only for consideration of the appropriation bill waiving points of order during the time it was considered by the Committee of the Whole? Certainly the rule should not carry over to the conference report? If it does the Members of the House abrogate their legislative prerogatives. If this is the case, the gentleman from Wisconsin for one shall never vote for a rule waiving points of order in the future.

It has been cited that the appropriation bill came to this House under a rule waiving points of order and therefore this conference report would be in order. The gentleman from Louisiana claims this appropriation conference report carries its own authorization under the rule waiving points of order granted in earlier consideration.

My parliamentary inquiry, Mr. Speaker, is: Does the rule under which the appropriation bill came to the House carry over and continue into the conference report?

THE SPEAKER: The Chair will state that will have a bearing on the point of order that is raised at the present time. . . .

The gentleman from Illinois has raised a point of order against the conference report on the bill H.R. 15149.

The Chair is aware of the fact pointed out by the gentleman from Illinois—that the authorization bill for fiscal 1970, while passed by both Houses, has not yet become law. As pointed out in the debate on this point of order, the conference report now before the House does carry an amount for military assistance that is \$54,500,000 above the figure which would be authorized by H.R. 14580, the Foreign Assistance Act of 1969.

However, the Chair recalls that when this appropriation bill passed the House, it was considered under a rule waiving points of order. The House agreed to a total figure for military assistance of \$454,500,000. The Senate reduced this figure to \$350 million. The conferees have reached an agreement between these two amounts, as they had the authority to do.

The Chair holds that the conferees have not exceeded their authority and overrules the point of order.

The gentleman from Louisiana is recognized for 1 hour.

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: Does the gentleman from Louisiana yield for a parliamentary inquiry?

MR. PASSMAN: Mr. Speaker, I yield for a parliamentary inquiry.

MR. GROSS: Mr. Speaker, I desire to make a point of order against consideration of the bill.

MR. PASSMAN: Mr. Speaker, I yielded to the gentleman for a parliamentary inquiry, not for a motion.

MR. GROSS: Mr. Speaker, I made a point of order against consideration of the conference report in toto.

THE SPEAKER: The gentleman will state his point of order.

MR. GROSS: Mr. Speaker, I make a point of order against consideration of the conference report on the basis that none of the appropriations contained in the bill H.R. 15149 have been authorized by law.

MR. PASSMAN: May I be heard on that, Mr. Speaker?

THE SPEAKER: Of course, the Chair will hear the gentleman.

MR. PASSMAN: It is my understanding that the Chair just ruled on that specific point a moment ago. I ask for a ruling, Mr. Speaker.

THE SPEAKER: The Chair will state that it overrules the point of order made by the gentleman from Iowa (Mr. Gross), on the ground that the special rule waived points of order against the provisions of the House bill.

Parliamentarian's Note: The only restriction against inclusion of an unauthorized appropriation or of legislation in a conference report on a general appropriation bill is contained in clause 2, Rule XX, which prohibits conferees on the part of the House from agreeing to a Senate amendment which would have violated clause 2, Rule XXI if it had originated in the House, unless the House by a separate vote authorizes the conferees to agree to such a Senate amendment. The conferees may, however, agree to a Senate amendment which modifies a provision in the House bill, and that modification if offered in the House would have been in order as a germane perfection to legisla-

tion or unauthorized appropriations permitted to remain in the House bill by a special rule waiving points of order. For example, an unauthorized appropriation appearing in a House general appropriation bill, but protected by a waiver of points of order, maybe amended by increasing or decreasing the amount of the unauthorized sum, since that type of amendment adds no further unauthorized appropriations. A Senate amendment of the same character may be agreed to by the House conferees without violating the provisions of clause 2, Rule XX. If the Senate amendment added another unauthorized appropriation, or legislative language, it would be subject to the restriction contained in that clause.

If a conference report contains language not adopted by either House (whether or not constituting legislation or unauthorized appropriations on a general appropriation bill), the report would violate an entirely different provision of the House rules, prohibiting the inclusion by House conferees of matter not committed to conference (clause 3, Rule XXVIII).

***Waiving Points of Order
Against Legislation in Appropriation Bill***

§ 23.38 Form of resolution waiving points of order

against legislative language in an appropriation bill and providing that during the remainder of the session no amendment shall be in order to any other general appropriation bill which conflicts with the provisions of the language made in order by the special rule.

The following resolution was under consideration on Jan. 11, 1934: ⁽²⁾

Resolved, That during the consideration of H.R. 6663, a bill making appropriations for the Executive Office and sundry independent bureaus, boards, commissions, and offices, for the fiscal year ending June 30, 1935, and for other purposes, all points of order against title II or any provisions contained therein are hereby waived; and no amendments or motions to strike out shall be in order to such title except amendments or motions to strike out offered by direction of the Committee on Appropriations, and said amendments or motions shall be in order, any rule of the House to the contrary notwithstanding. Amendments shall not be in order to any other section of the bill H.R. 6663 or to any section of any general appropriation bill of the Seventy-third Congress which would be in conflict with the provisions of title II of the bill H.R. 6663 as reported to the House, except amendments offered by direction of the Committee on Appropriations, and said

2. H. Res. 217, 78 CONG. REC. 479, 73d Cong. 2d Sess.

amendments shall be in order, any rule of the House to the contrary notwithstanding.

Parliamentarian's Note: Title II of the bill, entitled "Economy Provisions," was entirely legislative in nature, amending a number of statutes relative to the salaries of public officials, pensions, and other allowances.

§ 23.39 Form of resolution waiving points of order against one section of an appropriation bill which contained legislative provisions in violation of Rule XXI clause 2.

The following resolution was under consideration on May 27, 1969: ⁽³⁾

Resolved, That during the consideration of the bill (H.R. 11582) making appropriations for the Treasury and Post Office Departments, the Executive Office of the President, and certain independent agencies, for the fiscal year ending June 30, 1970, and for other purposes, all points of order against section 502 of said bill are hereby waived.

§ 23.40 Form of resolution waiving all points of order against consideration of a general appropriation bill

3. H. Res. 424, 115 CONG. REC. 14055, 91st Cong. 1st Sess. Rule XXI clause 2, *House Rules and Manual* §834 (1979).

not reported for three days, and further waiving points of order against the bill (except one section thereof containing legislation).

The following resolution was under consideration on Sept. 13, 1972: ⁽⁴⁾

Resolved, That upon the adoption of this resolution it shall be in order to move, clause of 6 rule XXI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16593) making appropriations for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes, and all points of order against said bill except against section 743 are hereby waived.

§ 23.41 A resolution adopted by the House waiving points of order against legislation contained in a general appropriation bill does not apply to amendments offered to that bill, or to amendments thereto, from the floor; and amendments adding further legislation to that permitted to remain in the bill by the special rule, or amendments adding further legislation to pending amendments, are subject to a point of order under clause 2, Rule XXI.

4. H. Res. 1114, 118 CONG. REC. 30524, 92d Cong. 2d Sess.

On May 10, 1973,⁽⁵⁾ the Committee of the Whole was considering for amendment H.R. 7447 (supplemental appropriations for fiscal year 1973), where the House had adopted a special order (House Resolution 389) waiving points of order against said bill containing legislation and unauthorized appropriations in violation of clause 2, Rule XXI, and re-appropriations in violation of clause 5 (now clause 6), Rule XXI. Mr. Clarence D. Long, of Maryland, offered the following amendment:

Amendment offered by Mr. Long of Maryland: on page 6, immediately after line 12, insert the following paragraph:

"None of the funds herein appropriated to the Department of Defense under this Act shall be expended to support directly or indirectly combat activities in, over or from off the shores of Cambodia by United States Forces."

Mr. Samuel S. Stratton, of New York, then offered an amendment to the amendment offered by Mr. Long, and Chairman Jack B. Brooks, of Texas, ruled that the amendment offered by Mr. Stratton was legislation and out of order:

Amendment offered by Mr. Stratton to the amendment offered by Mr. Long of Maryland: At the end of the amend-

ment, strike out the period, insert a semicolon, and add the following words:

"Except that no such limitation shall take effect until after the projected meeting between Dr. Kissinger and Le Duc Tho looking toward improved cease-fire compliance has been held and a full report on its results made to the Congress; or if such a meeting is not held, until the President has reported fully to the Congress the reasons therefore; but in no event shall such delay continue for more than 3 months".

THE CHAIRMAN: The Chair is prepared to rule.

The amendment offered by the gentleman from Maryland is a limitation on expenditures. The amendment to the amendment offered by the gentleman from New York is a time limitation, but it is also legislation, in that it would require additional responsibilities and duties. It would require individuals to report, and finally the President to report. It would be legislation.

Therefore, the Chair sustains the point of order.

Chairman Brooks subsequently responded to a parliamentary inquiry on the effect of a special rule, waiving points of order against a general appropriation bill, on amendments offered to that bill or to amendments there-

to:

MR. [HAROLD R.] COLLIER [of Illinois]: Mr. Chairman, I have a parliamentary inquiry, and I will make a point of order, if it is in order.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

5. 119 CONG. REC. 15318-20, 93d Cong. 1st Sess.

MR. COLLIER: The parliamentary inquiry is this: Did we not waive points of order by earlier action of this House? If we did, how, then, is a point of order in order when points of order have been waived?

THE CHAIRMAN: The rule only waived points of order against provisions of the bill not against amendments offered from the floor to that legislation.

MR. COLLIER: Mr. Chairman, would not the amendment offered by the gentleman from Maryland (Mr. Long), be in and of itself under that waiver, and, therefore, any subsequent point of order on an amendment thereto would be equally out of order?

THE CHAIRMAN: Any amendment offered on the floor could be subject to a point of order. No Member raised a point of order against the amendment offered by the gentleman from Maryland (Mr. Long). A point of order was raised against an amendment to that amendment. It was sustained. That is the situation existing at this time.

§ 23.42 Where the House is considering a general appropriation bill under a resolution waiving all points of order against the bill, a paragraph enacting the provisions of several House-passed resolutions as permanent law, though concededly legislative in character, is not subject to a point of order.

On Dec. 10, 1970,⁽⁶⁾ Chairman Claude D. Pepper, of Florida,

6. 116 CONG. REC. 40941, 91st Cong. 2d Sess.

overruled a point of order against a provision in a supplemental appropriation bill, where the House had adopted a special order (H. Res. 1303) providing that during the consideration of the bill all points of order against said bill were waived:

THE CHAIRMAN: The Clerk will read. The Clerk read as follows:

ADMINISTRATIVE PROVISIONS

The provisions of House Resolutions 1270 and 1276, relating to certain official allowances; House Resolution 1241, relating to compensation of the clerks to the Official Reporters of Debates; and House Resolution 1264, relating to the limitation on the number of employees who may be paid from clerk hire allowances, all of the Ninety-first Congress, shall be the permanent law with respect thereto.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I rise to make a point of order against the language beginning on line 23 of page 12 and running through line 4 of page 13 as being legislation on an appropriation bill and not a retrenchment.

MR. [GEORGE H.] MAHTON [of Texas]: Mr. Chairman, the gentleman's point of order would be appropriate except, of course, for the fact that we do have a rule waiving points of order against the bill.

THE CHAIRMAN: The Chair is prepared to rule. Does the gentleman from Iowa care to be heard further?

MR. GROSS: No, sir.

THE CHAIRMAN: Under the resolution the House adopted, points of order against the bill are waived. The point of order is not sustained.

Amending Legislation Permitted to Remain in Appropriation Bill by Special Order

§ 23.43 A proposition in an appropriation bill proposing to change existing law but permitted to remain by special order may be perfected by germane amendments, provided they do not add legislation.

On Aug. 20, 1951, the Committee of the Whole was considering an appropriation bill, where the House had adopted a special order (H. Res. 394) from the Committee on Rules waiving points of order against the bill (including unauthorized appropriations and legislative language). Pending was a section of the bill, containing legislation, to authorize the Secretary of the Army to direct the preparation of planning reports for public works projects. Chairman Edward J. Hart, of New Jersey, sustained a point of order against an amendment adding further legislation to that contained in the bill (by giving such authority to the Secretary of the Interior as well):⁽⁷⁾

MR. [GERALD R.] FORD [of Michigan]: Mr. Chairman, I offer a perfecting amendment.

7. 97 CONG. REC. 10408, 82d Cong. 1st Sess.

The Clerk read as follows:

Amendment offered by Mr. Ford:

Page 42, line 6, strike out the word "is" and insert "and the Secretary of the Interior are."

Page 42, line 7, after the word "engineers" insert the following "and the Commissioner of Reclamation."

Page 42, line 13, after the word "Army" insert the following, "and the Secretary of the Interior."

Page 43, line 23, after the word "engineers" insert the following "and the Commissioner of Reclamation."

Page 44, line 1, strike out the word "him" and insert the word "them."

Page 44, line 3, strike out the word "is" and insert "and the Commissioner of Reclamation are."

MR. [JOHN J.] DEMPSEY [of New Mexico]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. DEMPSEY: The amendment is not germane to this section, and in addition to that, it is purely legislation on an appropriation bill.

THE CHAIRMAN: Does the gentleman from Michigan desire to address himself to the point of order?

MR. FORD: Mr. Chairman, in reply to the point of order made by the gentleman from New Mexico, I would like to say first that under the rule adopted at the time this legislation came to the floor all points of order were waived. Secondly, I think that the amendment is germane because it does apply to engineering and construction of Federal projects, and section 1313 in itself applies to engineering and construction of Federal projects.

MR. DEMPSEY: Mr. Chairman, the Committee on Rules, waived points of

order to the bill, but they certainly cannot waive points of order to an amendment which might be offered, which the gentleman is proposing to do.

THE CHAIRMAN: The Chair is ready to rule.

With respect to the question of waiving all points of order, that runs only to the provisions of the bill and not to amendments offered to the bill. A proposition in an appropriation bill proposing to change existing law but permitted to remain, may be perfected by germane amendments, provided they do not add further legislation. The Chair is of the opinion that this amendment does add further legislation, and, therefore, sustains the point of order.

§ 23.44 A proposition in a general appropriation bill proposing a change in existing law, which was made in order by a special rule, may not be amended by inserting additional legislation even though such additional legislation be germane.

On June 21, 1935, the Committee of the Whole had under consideration the second deficiency appropriation bill. The House had adopted a special order (H. Res. 266) waiving all points of order against said bill during its consideration. Chairman Franklin W. Hancock, Jr., of North Carolina, ruled out of order an amendment offered to the bill because,

although germane to the bill, it added additional legislation to that contained in the bill: ⁽⁸⁾

MR. [DONALD H.] MCLEAN [of New Jersey]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McLean: On page 48, line 16, after the figures "1936", insert the following:

"All moneys of the Corporation of whatsoever nature hereafter received by or for the Corporation shall be immediately and without diminution deposited and covered into the Treasury of the United States, and such portion thereof as is authorized by the Tennessee Valley Authority Act of 1933, as amended, or other law, to be used by said Corporation in carrying out the provisions of said act, as amended, shall be transferred to an appropriate appropriation account, withdrawable only on warrant as are other appropriated public moneys, and subject to authority specifically granted by the Tennessee Valley Authority Act of 1933, and as amended, all laws regulating the obligating or expenditure of other public moneys shall be applicable thereto: *Provided*, That the provisions of section 3709, Revised Statutes, shall be applicable to purchases of supplies and equipment necessary for dam construction. Accounts of all transactions involving receipts or disbursements of the Corporation shall be duly rendered to the General Accounting Office at such times and in such substance and form as may be prescribed by the Comptroller General of the United States, and said accounts and such claims as may arise shall be settled and adjusted by the General Accounting Of-

8. 79 CONG. REC. 9853, 9854, 74th Cong. 1st Sess.

fice under and pursuant to the provisions of title III of the Budget and Accounting Act approved June 10, 1921: *Provided*, That the expenses of such portion of the audit as the Comptroller General may authorize to be done in the field shall be paid from moneys advanced therefor by the Corporation, or from any appropriation or appropriations for the General Accounting Office, and appropriations so used shall be reimbursed promptly by the Corporation as billed by the Comptroller General. In such connection the Comptroller General and his representatives shall have free and open access to all papers, books, records, files, accounts, plants, warehouses, offices, and all other things, property, and places belonging to, under the control of, or used or employed by the Corporation, and shall be afforded full facilities for counting all cash and verifying transactions with the balances in depositories. The officers of the Corporation to whom moneys may be advanced on accountable warrant shall each give a bond to the United States for the faithful discharge of the duties of his office according to law in such amount as shall be directed by the Comptroller General. Should there be any administrative delinquency in the rendering of the accounts as directed, or any unsatisfactory condition of the accounts, requisitions for funds shall be disapproved by the Comptroller General unless, for good cause shown, he shall elect to withhold such disapproval."

MR. [JAMES P.] BUCHANAN [of Texas]: Mr. Chairman, I make the point of order against the amendment that it is legislation on an appropriation bill and changes existing law. . . .

MR. [JOHN] TABER [of New York]: This amendment is not only a limitation upon the funds carried in this bill

which are in effect reappropriated, but it is also germane to the language of the bill covering the full appropriations that have been made for this purpose into one fund. It is, also, a direction as to how and in what manner the funds shall be accounted for.

By the rule under which we are proceeding in the consideration of this bill, anything germane to the language of the bill is made in order, and I believe the gentleman's amendment in its entirety is in order. . . .

THE CHAIRMAN: The Chair is of the opinion that the point of order is well taken. The Chair bases this conclusion upon a ruling handed down by the gentleman from Connecticut [Mr. Tilson], while presiding over a Committee of the Whole. At that time and in a similar case it was held that although the amendment then offered was germane it contained additional legislation beyond the jurisdiction of the Committee on Appropriations.

The Chair believes that this amendment is germane but that it proposes additional legislation which is a subject matter ordinarily coming within the jurisdiction of the Committee on Military Affairs.

The point of order is sustained.

§ 23.45 A legislative provision in a general appropriation bill, not subject to a point of order under Rule XXI clause 2 because the House has adopted a resolution waiving points of order against that portion of the bill, may be perfected by germane amend. meet.

On May 21, 1969, Chairman Chet Holifield, of California, overruled a point of order against an amendment to a supplemental appropriation bill, where the House had adopted a special order (H. Res. 414) waiving all points of order against title IV of said bill and where the amendment was offered to title IV of the bill: ⁽⁹⁾

TITLE IV

LIMITATION ON FISCAL YEAR 1970
BUDGET OUTLAYS

Sec. 401. (a) Expenditures and net lending (budget outlays) of the Federal Government during the fiscal year ending June 30, 1970, shall not exceed \$192,900,000,000: *Provided*, That whenever action, or inaction, by the Congress on requests for appropriations and other budgetary proposals varies from the President's recommendations thereon, the Director of the Bureau of the Budget shall report to the President and to the Congress his estimate of the effect of such action or inaction on expenditures and net lending, and the limitation set forth herein shall be correspondingly adjusted.

(b) The Director of the Bureau of the Budget shall report periodically to the President and to the Congress on the operation of this section. The first such report shall be made at the end of the first month which begins after the date of approval of this Act: subsequent reports shall be made at the end of each calendar month during the first session

of the Ninety-first Congress, and at the end of each calendar quarter thereafter. . . .

MR. [JEFFERY] COHELAN [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Cohelan of California: On page 62, line 3, add the following as a new section:

"(c) The limitation set forth in subsection (a), as adjusted in accordance with the proviso to that subsection, shall be increased by an amount equal to the aggregate amount by which expenditures and net lending (budget outlays) for the fiscal year 1970 on account of items designated as "Open-ended programs and fixed costs" in the table appearing on page 16 of the Budget for the fiscal year 1970 may be in excess of the aggregate expenditures and net lending (budget outlays) estimated for those items in the April review of the 1970 budget."

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I make a point of order against the amendment in that it is legislation on an appropriation bill.

Mr. Chairman, the rule pertaining to title IV only protects what is in the bill, not amendments to the bill. . . .

THE CHAIRMAN: The Chair is ready to rule.

The Chair has examined title IV. This is a new subparagraph to title IV. Title IV is legislation in a general appropriation bill, and all points of order have been waived in title IV, as a result of it being legislation. Therefore the Chair holds that the amendment is germane to the provisions contained in title IV and overrules the point of order.

9. 115 CONG. REC. 13270, 13271, 91st Cong. 1st Sess.

§ 23.46 A legislative provision in a general appropriation

bill, not subject to a point of order under Rule XXI clause 2 because the House had adopted a resolution waiving points of order against the bill, may be perfected by germane amendment; but such amendment may not add additional legislation. Thus to a provision in the foreign aid appropriation bill, prohibiting assistance under the Foreign Assistance Act of 1961 to any nation which sells to North Vietnam, an amendment broadening this prohibition to foreclose aid under any act, was held to be additional legislation and not in order.

On Nov. 17, 1967, Chairman Charles M. Price, of Illinois, sustained a point of order against an amendment offered to the foreign aid appropriation bill, where the House had adopted a special order (H. Res. 978) waiving all points of order against the bill during its consideration, but where the amendment, offered by Mr. H. R. Gross, of Iowa, sought to attach additional legislation to the bill:⁽¹⁰⁾

10. 113 CONG. REC. 32966, 32967, 90th Cong. 1st Sess. For the ruling referred to by Mr. Gross in his remarks on the point of order, see 113 CONG. REC. 32887, 90th Cong. 1st Sess.

The Clerk read as follows:

Sec. 116. No assistance shall be furnished under the Foreign Assistance Act of 1961, as amended, to any country that sells, furnishes, or permits any ships under its registry to carry to North Vietnam any of the items mentioned in subsection 107(a) of this Act.

MR. GROSS: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gross: On page 13, strike all of lines 4 through 8, and insert the following:

"Sec. 116. No loans, credits, guarantees, or grants or other assistance shall be furnished under this or any other Act, including the Foreign Assistance Act of 1961, as amended, to any country which sells or furnishes to North Vietnam, or which permits ships or aircraft under its registry to transport to or from North Vietnam, any equipment, materials, or commodities, so long as North Vietnam is governed by a Communist regime.

"Notwithstanding section 640 of the Foreign Assistance Act of 1961, as amended, no defense articles or defense services shall be acquired from, or provided to, any such country by any means under this or any other Act. Nothing in this or any other Act shall be construed to authorize the President to waive these provisions." . . .

MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Chairman, I insist upon my point of order.

THE CHAIRMAN: The gentleman from Louisiana will state his point of order.

MR. PASSMAN: Mr. Chairman, this amendment goes further than the provision in the bill, and refers to funds provided in this or any other act presently on the statute books.

THE CHAIRMAN: Does the gentleman from Iowa desire to be heard on the point of order?

MR. GROSS: Very briefly, Mr. Chairman.

The Chairman: The Chair will hear the gentleman.

MR. GROSS Mr. Chairman, on yesterday the present Chairman of the Committee of the Whole House on the State of the Union ruled as follows:

The section of the bill to which the amendment is offered is legislation which has been permitted to remain by waiver of points of order. Such legislative provisions can be perfected by germane amendments.

The Chair then ruled:

The Chair is of the opinion that the amendment of the gentleman from Missouri is germane and therefore overrules the point of order.

I would say to the Chairman, this is an amendment providing a limitation to a provision of this bill which has been made in order by a rule waiving points of order.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Iowa correctly states the ruling of the Chair on yesterday. That ruling indicated that the Chair held in order an amendment which was ruled to be a perfecting amendment to a paragraph in the bill that was conceded to be legislation on an appropriation bill but on which points of order had been waived in a rule adopted by the House.

The Chair holds that the amendment offered by the gentleman from Iowa is additional legislation on this bill not covered by the points of order that were waived.

The Chair holds that the amendment adds additional legislation on an appropriation bill; and therefore sustains the point of order.

§ 23.47 A legislative provision in a general appropriation bill, not subject to a point of order under Rule XXI clause 2, because the House had adopted a resolution waiving points of order against the bill, may be perfected by germane amendment.

On Nov. 16, 1967, Chairman Charles M. Price, of Illinois, overruled a point of order against an amendment offered to the foreign aid appropriation bill, where the House had adopted a special order (H. Res. 978) waiving all points of order against the bill during its consideration:⁽¹¹⁾

The Clerk read as follows:

International organizations and programs: For expenses authorized by section 302(a), \$125,000,000: *Provided*, That the President shall seek to assure that no contribution to the United Nations Development Program authorized by the Foreign Assistance Act of 1961, as amended, shall be used for projects for economic or technical assistance to the Government of Cuba, so long as Cuba is governed by the Castro regime: *Provided further*, That no part of this appropriation shall be used to initiate any project, activity, or program which has not been justified to the Congress.

MR. [PAUL C.] JONES of Missouri: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Jones of Missouri: On page 3, line 5, delete

11. 113 CONG. REC. 32886, 32887, 90th Cong. 1st Sess.

the words "That the President shall seek to assure that"; and further, on line 10, after the word "regime" add a comma and the words "or to any country which has severed diplomatic relations with the United States." . . .

MR. [DONALD M.] FRASER [of Minnesota]: Mr. Chairman, I make the point of order that the amendment is not in order.

If I may speak on it briefly?

THE CHAIRMAN: The gentleman may be heard on his point of order.

MR. FRASER: Mr. Chairman, this amendment does not serve just to perfect a legislative provision that might be protected by the rule adopted earlier, but it seeks to expand into a whole new area not contemplated in the present legislative provision and purports to deal with countries with which we have broken diplomatic relations. We would be adding a whole new section since the amendment is not limited to funds appropriated under this Act. . . .

THE CHAIRMAN: The Chair is ready to rule.

The gentleman offered an amendment to line 5 which would strike out the words "that the President shall seek to assure that" and on line 10 strike out the colon and insert a comma after the word "regime" and after the comma add the words "or to any country which has severed diplomatic relations with the United States."

The section of the bill to which the amendment is offered is legislation which has been permitted to remain by waiver of points of order. Such legislative provisions can be perfected by germane amendments.

The Chair is of the opinion that the amendment of the gentleman from Missouri is germane and therefore overrules the point of order.

Waiving Points of Order Against Appropriation in a Legislative Bill

§ 23.48 The Committee on Rules may report a resolution waiving points of order against provisions in a bill in violation of Rule XXI clause 4, and it is not in order to make such points of order when the resolution and not the bill is before the House.

On Aug. 1, 1939,⁽¹²⁾ there was pending before the House, House Resolution 286 reported from the Committee on Rules providing for the consideration of a bill reported from the Committee on Banking and Currency and waiving points of order against the bill (certain sections of the bill contained appropriations in a legislative bill). Speaker William B. Bankhead, of Alabama, overruled a point of order against the resolution where the point of order was directed against those sections of the bill:

MR. [JOHN] TABER [of New York]: Mr. Speaker, I make a point of order against certain sections of the bill referred to in the rule.

12. 84 CONG. REC. 10710, 10711, 76th Cong. 1st Sess.

THE SPEAKER: Does the gentleman desire to make a point of order against the resolution?

MR. TABER: Against certain sections of the bill referred to in the resolution.

THE SPEAKER: The Chair will not entertain that point of order, because the matter now pending before the House is whether or not it should agree to the resolution making a certain bill in order. . . .

The Chair is ready to rule on the point of order.

The Chair has no disposition to limit the argument of the gentleman from New York [Mr. Taber], but the Chair is very clearly of the opinion that the points of order the gentleman seeks to raise against certain provisions of the bill are not in order at this time. The House is now considering a resolution providing for the consideration of the bill against which the gentleman desires to raise certain points of order. The resolution which is now being considered itself provides, if adopted, that all points of order against the bill are waived. This is no innovation or new matter. Time after time the Committee on Rules has brought to the House resolutions waiving points of order against bills. Under the general rules of the House, the Chair will say to the gentleman, aside from the consideration which the Chair has mentioned, points of order cannot be raised against the bill until the section is reached in the bill which attempts to make appropriations and against which the point of order is desired to be made.

For those reasons the Chair does not feel like recognizing the gentleman at this juncture to state points of order against the proposed bill.

MR. TABER: May I call the attention of the Chair to the last sentence in clause 4 of rule XXI:

A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.

There have been decisions holding that the point of order would not lie to the bill or to its consideration, but I have cited to the Chair cases where such points of order have been made and have been sustained when the bill itself was not under consideration.

THE SPEAKER: The Chair has undertaken to make it plain that the Chair's decision is based very largely upon the proposition that the resolution now being considered specifically waives all points of order that may be made against the bill, and includes those matters evidently against which the gentleman has in mind in making points of order.

Parliamentarian's Note: The provision in Rule XXI and clause 5 (clause 4 at the time of this precedent) *House Rules and Manual* §846, 1979, allowing a point of order at any time has been interpreted to require the point of order to be raised when the section of the bill has been read, or the amendment is pending, under the five-minute rule.

§ 23.49 Form of resolution waiving points of order against a legislative bill and committee amendments (containing appropriations in violation of Rule XXI clause

4) insofar as they pertain to a prior public law.

The following resolution reported from the Committee on Rules was under consideration on June 19, 1962:⁽¹³⁾

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11222) to improve and protect farm income, to reduce costs of farm programs to the Federal Government, to reduce the Federal Government's excessive stocks of agricultural commodities, to maintain reasonable and stable prices of agricultural commodities and products to consumers, to provide adequate supplies of agricultural commodities for domestic and foreign needs, to conserve natural resources, and for other purposes, and points of order against said bill as they pertain to Public Law 480, Eighty-third Congress, are hereby waived. After general debate, which shall be confined to the bill and continue not to exceed six hours, to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order the amendments recommended by the Committee on Agri-

culture now printed in the bill as they pertain to Public Law 480, Eighty-third Congress. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of the bill H.R. 11222, it shall be in order in the House to take from the Speaker's table the bill S. 3225 and to move to strike out all after the enacting clause of said Senate bill and to insert in lieu thereof the provisions contained in H.R. 11222 as passed by the House.

Parliamentarian's Note: Public Law No. 83-480 was the Agricultural Trade Development and Assistance Act of 1954; H.R. 11222 allowed the use of funds already appropriated under that act for new purposes, which would be construed as a violation of Rule XXI clause 5, *House Rules and Manual*, 1979.

Designated Points of Order Permitted

§ 23.50 Form of a resolution making in order and waiving points of order against a committee amendment in the nature of a substitute, to be read as an original bill for the purpose of amendment,

13. H. Res. 678, 108 CONG. REC. 10950, 87th Cong. 2d Sess. See also H. Res. 727, 108 CONG. REC. 14142, 87th Cong. 2d Sess., July 19, 1962.

and allowing points of order (on the grounds of committee jurisdiction) to be raised against any portion of said amendment.

On Oct. 27, 1971,⁽¹⁴⁾ the House adopted House Resolution 661, providing for the consideration of H.R. 7248 (to amend the Higher Education Act and for other purposes). The resolution contained a provision allowing points of order to be raised against the committee amendment in the nature of a substitute:

. . . It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles instead of by sections, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI and clause 4, rule XXI are hereby waived, and further, all titles, parts, or sections of the said substitute, the subject matter of which is properly within the jurisdiction of any other standing committee of the House of Representatives, shall be subject to a point of order for such reason if such point of order is properly raised during the consideration of H.R. 7248.

14. 117 CONG. REC. 37765, 37766, 92d Cong. 1st Sess.

§ 24. As to Control, Distribution, and Duration of Debate

In providing for the consideration of bills, special orders from the Committee on Rules usually state that it shall be in order to resolve into the Committee of the Whole, that general debate continue not to exceed a certain number of hours, to be equally divided and controlled by the chairman and ranking minority member of the reporting committee, and that the bill be read for amendment under the five-minute rule. Upon the report of the Committee of the Whole to the House, the previous question is considered as ordered by the special order, and no further debate in the House will be in order except on a motion to recommit with instructions.

The special order may divide the time and control of general debate among several committees, and may provide that general debate continue not for hours but for days.⁽¹⁵⁾

Debate under the five-minute rule may be limited to a time certain,⁽¹⁶⁾ and "closed" rules, or special orders allowing no amend-

15. Generally, the term one day as so used means one legislative day. See § 24.8, *infra*.

16. See § 24.9, *infra*.